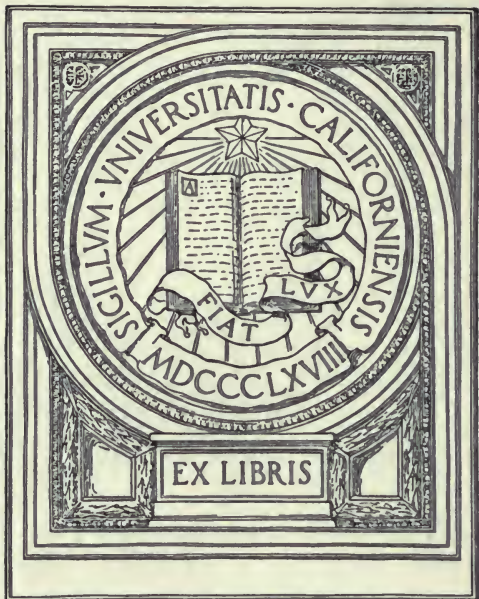


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CIRCULAR.

NEW-YORK, *February 1st, 1866.*

To the Insurance Agents of the United States:

GENTLEMEN—You have probably heard something of a movement that has been inaugurated to procure from Congress a "National Insurance Law." It is to advise you, somewhat in detail, concerning this project—in which you, as Agents, are vitally interested, that this circular and the accompanying pamphlet have been prepared.

The plan is prompted mainly by three considerations: its Necessity, its Desirableness, its Equity.

I. ITS NECESSITY.—Legislation in the several states towards the Insurance Companies of sister states, has proceeded in a spirit of persistent and injurious hostility, until it has created an almost prohibitory burden of taxes, forced loans, deposits, licences, subsidies, compulsory advertising, fees, &c., &c., State, County and Municipal, that would surpass the belief of one not familiar therewith. Generally, these laws do not look to the real security of the policy holder, or the strength of the companies, but are apparently conceived in a temper of extortion and unfriendliness to enterprises that are the handmaids of commerce and the guardians of all our destructible values. For example: the one item of compulsory newspaper printing in the one State of Ohio alone amounts to over \$25,000 each year, not one copper of which is necessary to the safety of the insured.

But to begin nearer home. No company, domestic or "foreign", can do business in New-York without responding annually to a catechism of ninety-eight questions, spread over six broad pages of super-royal paper, which run the chromatic scale of subtle inquisition with most scrutinizing curiosity! In so far as this conduces to the suppression of unworthy institutions and the encouragement of solid ones, no good company does or will object

to it, and all honor must be accorded to the Insurance Departments of New-York and Massachusetts for the salutary effect they have had upon the companies of the land. In Life Insurance, however, a deposit of \$100,000 is required, to be made in the New-York Department (or that of some other State), and this feature is complained of bitterly by Western Life and Accident Companies who will not make the deposit here, who have no Department at home with which to make it, and yet whose means are ample, and whose record creditable; and it is used as a telling plea for retaliatory measures in their several states.

In Pennsylvania, each "foreign" Company must pay an annual State license of \$600, and appoint a State Agent to whom all other Agents in that State must report the amount of their premiums, on which he must pay a tax of three per cent.

In Virginia they have in contemplation, as I have been recently advised, a law requiring a deposit of \$50,000 from all "foreign" Companies.

In Alabama, each agency of each "foreign" Company must make a forced donation of \$200 annually to the Fire Department of the town in which such Agency is located, and in Mobile an additional \$200 *to the Medical College!*

In Louisiana there is a State Tax of \$1000, and in New Orleans an additional City Tax of \$2,000, and a certain per centage of premiums go *to the Bonds of the Opelousas Railroad!*

In Tennessee, a deposit of \$20,000 is required as a prerequisite to the first policy, an annual fee of \$1,250 to the State Auditor in addition to his little perquisites for issuing papers, &c., and the county and municipal taxation is such that it costs \$1,500 entrance money per annum at Nashville and about the same at Memphis to plant Agencies in those cities.

Arkansas has made a faint copy of the Wisconsin swindle, in a requirement for each Company to purchase

and deposit with her own State officials, \$5,000 of her own Bonds. One Company recently applied for the Bonds and was told by the Honorable State Auditor that they had no Bonds yet, and, worse, they had no money to get them printed with!

California requires a deposit of \$75,000 (in gold).

Missouri has a sliding-scale license arrangement of \$40 to \$100 per county.

Wisconsin demands a deposit of \$5,000 and upwards, according to premium receipts, to be made in her own Bonds, and the deposit to be increased from year to year.

Iowa and Ohio require a deposit of 5 per cent. of all State premiums received, if deposits are made in any other States.

One word here in regard to deposits. Each State that adopts the plan, renders it the more urgently necessary that *each other* State should do the same. One State cannot quietly see \$50,000 or \$100,000 of the assets of a Company doing business among her citizens, detached for the exclusive security of a "foreign" State without demanding similar security for her own people, and she must have as large a deposit too. Of necessity and in self-defence each State must legislate this matter as severely as any other State; and from the movements now contemplated and threatened, I do not see where local legislation can consistently stop, short of a maximum deposit in each State of, say \$100,000. Let this become general, (as it must if it continues,) and it will take over three millions to go around. Compliance is simply impossible. Such legislation is prohibitory, and this is precisely what local monopolists covet; and monopoly, or a desire for it, is, after all, at the root of these adverse measures.

To resume. All these States, and most of the others, require annual or semi-annual statements, of greater or less length and complexity, and all levy taxes on the premiums received; some two, some three, some five per cent.—not on the profits alone, but on the losses and expenses as well, they tax "gross sales!" Some require

voluminous newspaper advertising at each agency, an indiscriminate requisition for the smallest village and the largest city alike ; and all these onerous burdens are laid on Companies from "other States," while home institutions are, as a rule, without any wholesome check or regulation whatever.

These are samples of the unfriendly impediments laid in the way of legitimate enterprise by State legislation. No other branch of national enterprise is so harassed. Manufacturing Companies, Express Companies, Telegraph Companies ; Scholastic, Religious and Publication Companies, and scores of other corporate enterprises prosecute their business, through the medium of agencies, in all the States without let or hindrance, and they have a perfect right to do so. The clogs placed upon Insurance Companies, who wish to do the same thing, are wholly inexcusable ; they are without precedent or justification ; their tendencies are evil and only evil ; they impose burdens and restrictions upon the citizens and the trade of sister States that they impose not upon their own, and thereby violate the spirit of that broad and beneficent provision of the Constitution which says, "*The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.*"

Such legislation is in violent discord with a loyal, national spirit, is productive of prejudice and full of useless opposition to the legitimate enterprises of the several States. Such legislation tends to establish monopoly, cripple trade, promote inconvenience, increase the rates of Insurance, encourage laxity in local Companies, destroy the incomes of thousands of agents, quench competition, substitute favoritism for merit, and to force upon the people against their desires a poorer article at a higher price and more difficult to obtain.

No relief need be expected from the States themselves ; on the contrary, the disposition is increasing to add to the absurdities and injustice already existing. Hardly a week passes, but some new municipal license or State deposit

is broached. The newest sensation is an ordinance now pending before the city authorities of Chicago, to impose upon Insurance Companies *from other States* an annual city license of \$500!

The necessity, then, for some central bureau that shall regulate this whole matter, produce uniformity, and at once protect both insurer and insured, is apparent. Such regulation can come from the National Government only, and to Congress we must look for the needed relief.

II. ITS DESIRABLENESS.—This is best set forth by the facts above stated, which demonstrate the *necessity* for such a measure. The present status being evil, relief is certainly desirable; uniformity is desirable, thoroughness is desirable, broad publicity to the conditions of Companies is desirable. The best talent for the management of an Insurance department is desirable. The greatest power for demanding and compelling true and full exhibits from Companies is desirable. The highest seal upon the Companies examined and found worthy is desirable. The fullest measure of confidence that can be inspired for such worthy Companies is desirable. Even justice for all Companies, from every section, is eminently desirable. No where and no how can these desirable ends be so certainly, so easily, so simply, so cheaply reached as through a National Bureau of Insurance, authorized, watched, protected and fostered by the United States Government.

III. ITS EQUITY.—The plan proposed embraces the whole Union, with every Company therein that may choose to avail itself of its benefits. It is not for the advantage of any one section or set over another, but for all alike; the most obscure Company in the centre of any Western State that wishes to join in securing the rich harvest among the heavy values of the Eastern Cities is embraced in its provisions, and may profit equally with the most powerful Eastern corporations, if it elects to conform to its requirements.

It is not the design to ask for a law to regulate the Companies of any State within that State, Congress

could not enact such. But, under its special grants of power to regulate trade between the States and promote the general welfare, it can dictate the terms on which Companies may carry on an *inter-state business*.

It is not the design to ask, nor would it be the province of Congress to grant a law to which compulsory obedience must be made, but to provide a statute that will protect the rights of all parties, and let those companies comply that choose.

The effect of such an arrangement must be most beneficial. Enterprise from any quarter would be encouraged by it. Capital would be protected by it. Monopoly would be checked, favoritism restrained, injustice put to shame and many evils quenched.

What are the best means for obtaining the desired end?

This question has exercised the minds of some of the ablest men in our profession, and is not yet fully answered. On the first of November last, a convention of fifty-one Companies met in this city, and, after much earnest conference, appointed a committee of thirteen, to whom was confided the duty of preparing a bill which they should present to Congress. They were also to solicit your aid in behalf of the measure, and to take such other steps as would be most likely to secure the object sought. Subsequently, the Life and Accident Companies met also, and appointed a committee of eight, to work in harmony with the committee of thirteen.

The bill is now in course of preparation, and will be laid before Congress at the earliest practicable day.

Among the resolutions passed at that Convention was the following :

Resolved, That the members of this Convention, and all others interested in the business of Insurance, be requested to use earnest and active efforts to prepare the minds of the Senators and Representatives of their respective States to receive with favor some plan of nationalizing the business of Insurance.

What can you do as an Agent to forward this work?

I suggest the following plan of operations; it can be modified to meet the necessities of various localities, but

will serve as a basis for uniform action throughout the country.

1. Let all the Agents in your Congressional District meet at some central and convenient point to deliberate upon this matter. Concert of action is vital, and this cannot well be attained without conference and a mutual understanding.

2. Memorials should be circulated among your business men for signatures, petitioning Congress for a general Insurance Law. Forms for these will be furnished.

3. If you are personally and influentially acquainted with your member, write him on this subject, urging his favorable action on such a measure when it comes up; if you are not so acquainted, secure at once letters from some of his strongest friends, and have these points put in such shape and with such force as will arrest his attention. This step I regard as of the first importance.

Among the points on which you should post your Congressman, are :

1. The number of Agents in his district.

2. The value to them of their Agencies.

3. The loss that would ensue should they be deprived of them. (Bear in mind always that the aim and tendency of oppressive local legislation is to wipe out the present efficient and valuable system of Agencies, and substitute for it local Companies; Home insurance.)

4. The character and real merits of the local Companies, the home institutions and the Mutual Wild Cats seeking business in his district; tell him of their practices, give him their history, advise him of the real estimate in which they are held by the best and the best posted men. Give him the real bearings of the business, and the true merits of the best Companies as compared with the ones favored by this local legislation.

5. Remind him that his own property or his life is insured in *some* Company. Ask him to apply the matter to his own case, and by what he wants himself, he can safely judge what his constituents want. The best is

none too good for him—the best is none too good for all. If he would like the additional safety that will be secured by the proposed measure, if he would enjoy the guarantee of the National Insignia, if he prefers Greenbacks to ordinary currency, he may be sure his people would like the same.

6. This movement is really a *personal matter* to him, to you, to us all. There will be corporations that favor it and corporations that oppose; there will be motives good, bad and mixed, for and against it, but the real gist of the matter is one that *personally* concerns every citizen of the United States who holds, or ever expects to hold an Insurance Policy—Fire, Marine or Life.

Allow me to urge upon you the great importance of prompt and efficient attention to this matter; it cannot fail to commend itself to your good judgment. Let it, then, command your time and effort. Unanimity of action will insure success, and success will be worth all it can cost and a thousand times more.

What shall you do?

1. At once bring to bear upon your Congressman all the light, all the influence, all the weight, all the constraining and quickening power at your command. If you cannot reach him effectually yourself set some one in motion who can, and do not rest contented with a promise, but SEE THAT IT IS DONE.

2. Attend the meeting that will shortly be called in your congressional district by all means. Go resolved to act and you will return well posted and enlightened.

3. Diligently circulate the memorials among your leading and influential men, and forward them to your member without delay.

4. Do not rely alone upon these suggestions for ways and means; the subject is not only not exhausted, but hardly touched. Ample field is open for the exercise of your own independent powers.

C. C. HINE,

Sec. of Com. of 13.

COMMITTEE OF THIRTEEN,

Appointed by the Convention of November 1, 1865.

GEORGE T. HOPE.....	President	Continental.....	New-York.
C. C. HINE.....	Secretary	International.....	New-York.
DORAS L. STONE.....	President	Hanover.....	New-York.
EDWD. B. SMITH.....	Secretary	Western.....	Buffalo.
TIMO C. ALLYN.....	President	Hartford.....	Hartford.
F. CHAMBERLAIN.....	Director	Phoenix.....	Hartford.
D. R. SATTERLEE.....	President	Home.....	New Haven.
J. N. DUNHAM.....	Secretary	Western Massachusetts.....	Pittsfield.
EDMUND FREEMAN.....	President	Springfield Fire & Marine.....	Springfield.
JOHN KINGSBURY.....	President	Providence Washington.....	Providence.
J. S. PARISH.....	Secretary	Atlantic.....	Providence.
A. G. COFFIN.....	President	North American.....	Philadelphia.
JNO. B. SEIDENSTRICKER.....	President	National Fire.....	Baltimore.

COMMITTEE OF EIGHT,

Appointed by the Life Companies, December 13, 1865.

GUY R. PHELPS.....	Secretary	Connecticut Mutual.....	Hartford.
SHEPPARD HOMANS.....	Actuary	Mutual Life.....	New-York.
N. D. MORGAN.....	President	North America Life.....	New-York.
HENRY STOKES.....	President	Manhattan Life.....	New-York.
B. F. STEVENS.....	President	New England Mutual Life.....	Boston.
SAM'L H. WHITE.....	Secretary	Charter Oak Life.....	Hartford.
AMZI DODD.....	Mathematician	Mutual Benefit Life.....	New Jersey.
C. W. BOUCK.....	President	Brooklyn Life.....	Brooklyn.

LIST OF COMPANIES THAT HAVE FILED ASSENT TO
THE RESOLUTIONS OF CONVENTION.

HOME.....	New-York.	ETNA.....	Hartford.
INTERNATIONAL.....	New-York.	HARTFORD.....	Hartford.
CONTINENTAL.....	New-York.	PHOENIX.....	Hartford.
METROPOLITAN.....	New-York.	PUTNAM.....	Hartford.
GERMANIA.....	New-York.	MERCHANTS'.....	Hartford.
LORELLARD.....	New-York.	CITY FIRE.....	Hartford.
HANOVER.....	New-York.	NEW ENGLAND.....	Hartford.
REPUBLIC.....	New-York.	NORTH AMERICAN.....	Hartford.
WASHINGTON.....	New-York.	CONNECTICUT FIRE.....	Hartford.
MORRIS.....	New-York.	CHARTER OAK LIFE.....	Hartford.
ARCTIC.....	New-York.	PHOENIX MUTUAL	
HOWARD.....	New-York.	LIFE.....	Hartford.
RESOLUTE.....	New-York.	CONNECTICUT MU-	
ASTOR.....	New-York.	TUAL LIFE.....	Hartford.
NIAGARA FIRE.....	New-York.	TRAVELERS'.....	Hartford.
SECURITY.....	New-York.	PHENIX.....	Brooklyn.
YONKERS AND N. Y.	New-York.	HOME.....	New Haven.
MANHATTAN.....	New-York.	NORWICH.....	Connecticut.
KNICKERBOCKER		THAMES.....	Norwich.
LIFE.....	New-York.	NARRAGANSETT.....	Providence.
NORTH AMERICA		PROVIDENCE WASH-	
LIFE.....	New-York.	INGTON.....	Providence.
WESTERN.....	Buffalo.	HOPE.....	Providence.
COMMERCE.....	Albany.	ATLANTIC.....	Providence.
ALBANY CITY.....	Albany.	AMERICAN.....	Providence.
SPRINGFIELD FIRE		WESTERN TRANSIT.....	St. Louis.
AND MARINE.....	Massachusetts.	PROVIDENT LIFE IN-	
WESTERN MASSACHU-		SURANCE & TRUST.....	Chicago.
SETTS.....	Pittsfield.	N. W. MUTUAL LIFE.....	Chicago.

The object of the succeeding pages is to furnish such material as has been collated, touching the subject of Insurance Legislation. To show the feasibility and the constitutionality of National Insurance. To give the views, so far as they have been obtained, of statesmen, bearing upon this important topic, and to supply facts for use as they may be needed.

No more fitting opening could be devised than the following

Extract from President Johnson's Message, Dec. 5, 1865.

MONOPOLIES.

Our government springs from and was made for the people—not the people for the government. To them it owes allegiance; from them it must derive its courage, strength and wisdom. But while the government is thus bound to defer to the people, from whom it derives its existence, it should, from the very consideration of its origin, be strong in its power of resistance to the establishment of inequalities. Monopolies, perpetuities and class Legislation are contrary to the genius of free government, and ought not to be allowed. Here, there is no room for favored classes or monopolies; the principle of our government is that of equal laws and freedom of industry. Wherever monopoly attains a foothold, it is sure to be a source of danger, discord and trouble. We shall but fulfill our duties as legislators by according "equal and exact justice to all men," special privileges to none. The government is subordinate to the people; but as the agent and representative of the people, it must be held superior to monopolies, which, in themselves, ought never to be granted, and which, where they exist, must be subordinate and yield to the government.

TRADE BETWEEN THE STATES.

The constitution confers on Congress the right to regulate commerce among the several States. It is of the first necessity, for the maintenance of the Union, that that commerce should be free and unobstructed. No State can be justified in any device to tax the transit of travel and commerce between States. The position of many States is such that, if they were allowed to take advantage of it for purposes of local revenue, the commerce between States might be injuriously burdened, or even virtually prohibited. It is best, while the country is still young, and while the tendency to dangerous monopolies of this kind is still feeble, to use the power of Congress so as to prevent any selfish impediment to the free circulation of men and merchandise. A tax on travel and merchandise, in their transit, constitutes one of the worst forms of monopoly, and the evil is increased if coupled with a denial of the choice of route. When the vast extent of our country is considered, it is plain that every obstacle to the free circulation of commerce between the States ought to be sternly guarded against by appropriate legislation, within the limits of the constitution.

Monopoly is the essence of the objectionable State Legislation. To grant to a class "special privileges" [class legislation] denied to all, is the very pith of the matter. Taxation by one State of the legitimate commercial enterprises of other States is the enormity from which refuge is sought. If Mr. Johnson had had the great Insurance interests directly in view, he could hardly have been more to the point.

EXTRACTS FROM WEBSTER.

Remarks made in the Senate of the United States, on the bill to authorize the Purchase, on the part of the Government, of the Private Stock in the Louisville and Portland Canal, on the 25th of May, 1836.

Whoever, Mr. President, would do his duty, and his whole duty, in the councils of this government, must look upon the country as it is, in its whole length and breadth. He must comprehend it in its vast extent, its novel character, its sudden development, its amazing progress, confounding all calculation, and almost overwhelming the imagination.

To be sure, Sir, this is a work of internal improvement; but it is not on that account either the less constitutional or the less important. Sir, I have taken a part in this great struggle for internal improvement from the beginning, and I shall hold out to the end.

But, Sir, in this case, as in others, the doctrine of internal improvement has established itself by its own necessity, its own obvious and confessed utility, and the benefits which it has already so widely conferred. So it will be, I have no doubt, in the case before us. We shall wonder hereafter who could doubt the propriety of setting free the navigation of the Ohio, and shall wonder that it was delayed even so long.

We have foreign commerce, and we have internal commerce; and the power, and the duty also, of regulating, protecting, aiding, and fostering both, is given in the same words. For one, therefore, Sir, I look to the magnitude of the object, and not to its locality. I ask not whether it be east or west of the mountains. There are no Alleghanies in my politics.

I care not whether it be an improvement on the shore of the sea, or on the shore of one of those mighty rivers, so much like a sea, which flow through our vast interior. It is enough for me to know that the object is a good one, an important one, within the scope of our powers, and called for by the fair claims of our commerce.

Speech delivered at Madison, in the State of Indiana, on the 1st of June, 1837.

Believing that the great object of the Union is to secure the general safety and promote the general welfare, and that the Constitution was designed to point out the means of accomplishing these ends, I have always been in favor of such measures as I deemed for the general benefit, under the restrictions and limitations prescribed by the Constitution itself.

I supported them with my voice and my vote, not because they were for the benefit of the West, but because they were for the benefit of the whole country. That they are local in their advantages, as well as in their construction, is an objection that has been and will be urged against every measure of the kind. In a country so widely extended as ours, so diversified in its interests and in the character of its people, it is impossible that the operation of any measure should affect all alike. Each has its own peculiar interest, whose advancement it seeks; we have the sea coast, and you the noble river that flows at your feet. So it must ever be. Go to the smallest government in the world, the republic of San Marino, in Italy, possessing a territory of but ten miles square, and you will find its citizens, separated but by a few miles, having some interests which, on account of local situation, are separate and distinct. There is not on the face of the earth a plain, five miles in extent, whose inhabitants are all the same in their pursuits and pleasures. Some will live on a creek, others near a hill, which, when any measure is proposed for the general benefit, will give rise to jarring claims and opposing interests. In such cases, it has always appeared to me that the point to be examined was, whether the principle was general. If the principle were general, although the application might be partial, I cheerfully and zealously gave it my support.

Delivered in the Senate of the United States on the 26th of January, 1830.

Sir, I do not desire to enlarge the powers of the government by unjustifiable construction, nor to exercise any not within a fair interpretation. But when it is believed that a power does exist, then it is, in my judgment, to be exercised for the general benefit of the whole. So far as respects the exercise of such a power, the States are one. It was the very object of the Constitution to create unity of interests to the extent of the powers of the general government. In war and peace we are one; in commerce, one; because the authority of the general government reaches to war and peace, and to the regulation of commerce. I have never seen any more difficulty in erecting lighthouses on the lakes, than on the ocean; in improving the harbors of inland seas, than if they were within the ebb and flow of the tide; or in removing obstructions in the vast streams of the West, more than in any work to facilitate commerce on the Atlantic coast. If there be any power for one, there is power also for the other; and they are all and equally for the common good of the country.

Speech delivered in the Senate of the United States on the 28th of September, 1837, on the Currency.

The nature of exchange, Sir, is well understood by persons engaged in commerce; but as its operations are a little out of the sight of other classes of the community, although they have all a deep and permanent interest in the subject, I may be pardoned for a word or two of general explanation. I speak of domestic exchanges only. We mean, then, by exchange, this same transfer of funds. We mean the making of payment in a distant place, or the receiving of payment from a distant place, by some mode of

paper credits. If done by draft, order, or bill of exchange, that is one form; if done by the transmission of bank notes, through the post office, or otherwise, that is another form. In each, credit is used; in the first, the credit of the parties whose names are on the bill or draft; in the last, the credit of the bank. Every man, Sir, who looks over this vast country, and contemplates the commercial connection of its various parts, must see the great importance that this exchange should be cheap and easy. To the producer and to the consumer, to the manufacturer and the planter, to the merchant, to all, in all classes, this is a matter of moment.

The power over the coinage is not the strongest, nor the broadest, ground on which to place the duty of Congress. There is another power granted to Congress, which seems to me to apply to this case directly and irresistibly, and that is the commercial power. The Constitution declares that Congress shall have power to regulate commerce, not only with foreign nations, *but between the States.* *This is a full and complete grant, and must include authority over every thing which is part of commerce, or essential to commerce.* And is not money essential to commerce? No man in his senses can deny that; and it is equally clear, that whatever paper is put forth, with intent to circulate as currency, or to be used as money, immediately affects commerce. Bank notes, in a strict and technical sense, are not, indeed, money; but in a general sense, and often in a legal sense, they are money. They are substantially money, because they perform the functions of money. They are not like bills of exchange or common promissory notes, mere proofs or evidences of debt, but are treated as money, in the general transactions of society. If receipts be given for them, they are given as for money. They pass under a legacy, or other form of gift, as money. And this character of bank notes was as well known and understood at the time of the adoption of the Constitution as it is now. The law, both of England and America, regarded them as money, in the sense above expressed. *If Congress, then, has power to regulate commerce, it must have a control over that money, whatever it may be, by which commerce is actually carried on. Whether that money be coin or paper, or however it has acquired the character of money or currency, if, in fact, it has become an actual agent or instrument in the performance of commercial transactions, it necessarily thereby becomes subject to the regulation and control of Congress.*

*Speech delivered in the Senate of the United States on the 22nd of March, 1832,
in Answer to Mr. Calhoun.*

But, Sir, I have insisted that government is bound to protect and regulate the means of commerce, to see that there is a sound currency for the use of the people. The honorable gentleman asks, What then is the limit? Must Congress also furnish all means of commerce? Must it furnish weights and scales and steelyards? Most undoubtedly, Sir, it must regulate weights and measures, and it does so. But the answer to the general question is very obvious. Government must furnish all that which none but government can furnish. Government must do that for individuals which individuals cannot do for themselves. That is the very end of government. Why else have we a government?

MAGNITUDE OF THE INSURANCE BUSINESS WITHIN THE UNITED STATES.

The following figures show the operations of the Companies reporting to the New-York Insurance Department for five years.

No reports of Ocean Marine Companies are included. These vast amounts are from Fire, Inland and Life Companies only, and on business done within the United States only, and such portion of those Companies as do business in New York only. No statistics are accessible to show, in addition, the immense transactions, Fire, Inland and otherwise, of the other Companies located at Boston, Philadelphia, Baltimore, Pittsburgh, Cincinnati, Chicago, St. Louis, New Orleans, and the other Cities of the Union.

Premiums received in 5 years, - - -	\$124,909,732
Losses Paid. - - - - -	60,786,019
Amounts Covered, - - - - -	12,888,917,333

An annual average of over TWO AND A HALF BILLIONS of value protected by Companies whose reports are attainable; which amount would be enormously swelled could the figures of the grand aggregate be had.

It seems incredible that interests of such stupendous aggregate magnitude should be the subjects of the whim, prejudice or carelessness of 36 local legislative assemblies, having diverse notions and limited means of knowledge. And it seems more incredible that even such legislation should so utterly fail to appreciate the importance of the subject with which it was dealing as to devise such burdensome, ungenerous and unwise measures as are rehearsed, in part, in the foregoing Circular. And it would seem most incredible of all that any one should doubt the NATIONAL CHARACTER of Commercial transactions covering over *Twelve and three-quarter Billions in five years.*

If this be not Commerce, what is Commerce?

EXTRACTS from the Reports of Hon. WILLIAM BARNES, Superintendent of the Insurance Department of the State of New York.

From the Report of 1864.

The proposed passage by the State of California of an Act requiring all Insurance companies not incorporated under the laws of that State, to make a special deposit with some citizen, who shall be approved by the Comptroller, of the sum of \$75,000, in United States or California State stocks, or in stocks or bonds of the City and County of San Francisco, for the security of policy-holders, as a pre-requisite to the transaction of any business in that State, has again forced public attention to the consideration of the whole system of State deposits, as applicable to Insurance companies and the business of Insurance between the various States of the Union. No apparent necessity has dictated this unfriendly step on the part of our Pacific neighbors; no recent frauds by Eastern companies are reported, nor any failure to pay claims for losses when duly established by the usual proofs, or by litigation in the State courts of California. Indeed losses are not as closely scrutinized and examined by Pacific, as by Atlantic agencies. Less necessity for deposits now exists than at any previous period, as probably all unsound and fraudulent organizations have been dissolved by the Courts, and the great mass of companies have also largely increased their capitals and reserved funds. The sales of California mining stocks in this State subject our citizens to greater chances of loss than can result to citizens of California from any New York Insurance company; and a deposit law, requiring all California Mining companies to deposit \$75,000 in New York before selling stock, or otherwise operating within our territory, would be entirely justifiable, as proper retaliatory legislation against the unjust Insurance laws already enacted by her Legislature.

The existing laws of the States of Ohio and Iowa require a conditional deposit, and Tennessee requires an absolute deposit to be made by Fire Insurance companies incorporated in other States.

The Act in the State of Ohio, passed in the year 1856, requires all Fire Insurance companies not incorporated by the State of Ohio, which have on deposit in any other State, territory, or country, any portion of their capital or earnings as a guarantee fund for the exclusive benefit or security of persons insured therein, to deposit in Ohio, in such manner as the Auditor may direct, five per cent. of the premiums received in the State during the previous year, until such deposit shall amount to the sum of \$40,000, to be held as a guaranty fund for the benefit of policy-holders in the State of Ohio, until all claims for losses or premiums on risks unexpired shall be fully paid and discharged, or until all deposits in other States and countries shall be withdrawn. (*See act entitled "An act to regulate Insurance companies not incorporated by the State of Ohio;" Session Laws, 1856, p. 75.*)

In the year 1858, the same statute was passed by the Legislature of Iowa. (*Chap. 12, Laws of 1858, p. 15.*)

In the year 1860, the State of Tennessee enacted that all Insurance companies, whether chartered by the Legislature of Tennessee or any other State, should deposit with the Comptroller, as security for risks taken by

citizens of that State, the sum of \$20,000 in six per cent. bonds of the State of Tennessee. (*See § 70 of the Act to incorporate the Middle Tennessee Insurance Company, at Lebanon, and for other purposes; Session Laws 1859-60, Chap. 215, p. 645.*)

The earliest law on the subject of State Insurance deposits seems to be the Act passed by this State in 1851, (*Chap. 95,*) entitled "*An Act in relation to all companies transacting the business of Life Insurance within this State.*" Under the provisions of this Act all companies, whether incorporated by the State of New York, or in other States, or foreign countries, transacting the business of Life Insurance within this State, were required to deposit with the Comptroller the sum of \$100,000 in United States, New York State, or city stocks, or in bonds and mortgages. This Act was construed by the then Comptroller, Hon. PHILLO C. FULLER, as requiring such deposit for the exclusive benefit of policy-holders in this State. (*See Circular dated April 21st, 1851, Comptroller's Report for the year 1851, p. 126; also section 8 of said Act.*) The injustice to our sister States of requiring a special deposit to be made by their Life Insurance companies in this State, for the protection of New York policy-holders, was soon demonstrated to be so apparent, that in about two years the law was repealed, and the general Life Insurance Act of 1853 (*Chap. 463*) was passed, which substituted a deposit in the State where a company was located, although still requiring New York and foreign companies to deposit the \$100,000 in this State;—all such deposits to be made for the common benefit of all the policy-holders, whether residing in this or in any other State of the Union.

The Life Insurance Act of 1853, requiring a home deposit of \$100,000 for the protection of policy-holders, undoubtedly exerted a judicious and beneficent influence on the business of Life Insurance in the United States, giving it stability and character, and preventing the organization of numerous unsound, experimental and fraudulent companies, which would otherwise have been foisted upon the public in this and other States.

Deposits are evidently much more necessary in Life than in Fire Insurance, for the reason that Fire Insurance contracts are generally made for only a single year, while a Life company most ordinarily receive for a score or more years an income greatly exceeding its expenditure, and its maximum of liabilities is not generally reached until after the expiration of the average life of at least one generation.

If the system of State deposits by Insurance companies is ever to become generally prevalent in the United States, such deposits should never be required to be made except in the State where a company is incorporated, unless made with the General Government at Washington, and all deposits by American companies should be held, not for the special protection of policy-holders residing in any particular State, but for the common benefit of all American policy-holders; and all deposit laws should be applicable to home companies as well as to those of other States of the Union.

The California law requires a deposit to be made by the companies of other States and foreign nations only, and not by California companies, thus actually classing the corporations of sister States as "*Foreign*" com-

panies, organized by an alien government, and not being even as fair in this respect as the law of Tennessee.

The Constitution of the United States provides that,—“THE CITIZENS OF EACH STATE SHALL BE ENTITLED TO ALL PRIVILEGES AND IMMUNITIES OF CITIZENS IN THE SEVERAL STATES.” (*Article IV, section 2, subdivision 1.*)

This section was a condensation of a more amplified provision to the same effect, contained in the old Articles of Confederation and perpetual union (*Art. 4.*), which was expressly designed for the purpose of better securing and perpetuating mutual friendship and intercourse among the people of the different States. Upon declaring their independence of Great Britain, the several Colonies suddenly found themselves separate and independent sovereignties, with all the rights and privileges of independent nations, subject to the contingency of establishing their freedom by the chances of war. The absolute need for combined action was, however, so apparent that the old Articles of Confederation were agreed upon in 1777, the next year succeeding the Declaration of Independence. The Fourth Article was evidently a modification of the usual clause, granting the same privileges as to the most favored nation contained in Treaties of amity, commerce and navigation between foreign nations, and also of the ordinary article as to the rights and privileges of the citizens or subjects of one country in the territory or dominions of the other. (*See Elliott's American Diplomatic Code, Vols. I and II, passim; Treaty with Great Britain, Vol. I, p. 243, art. 3; Sweden and Norway, id. 208, Art. 1; France, id. 90, 91; The Netherlands, id. 135; Prussia, id. 334, 335, Arts. 2, 3; Denmark, id. 448, Art. 2.*)

By a recent Treaty between Great Britain and Belgium, this provision has been so extended that the high contracting parties mutually grant to all “companies and associations—commercial, industrial and financial,” constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the tribunals throughout the dominions and possessions of the other power, subject only to the condition of conforming to the laws of such dominions and possessions. (*New York Insurance Report, 1863, page 608.*) It is reported that a similar Convention has been concluded between France and Great Britain, nations which are natural enemies by the traditions and habits of centuries.

Eminent counsel have given professional Opinions that under Art. 4, Sec. 2, of the Constitution of the United States, one State of the Union cannot impose any taxes, restrictions or burthens on the Insurance corporations of sister States, which are not also equally imposed on the home or domestic companies of such State, and that the fundamental and supreme law of the land providing that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States, is applicable as well to corporations or artificial persons as to citizens or natural persons. (*See Opinions of DANIEL WEBSTER, GEORGE WOOD, and Chief Justice SAMUEL JONES, and of WILLIAM CURTIS NOYES, arguendo, 3 E. D. Smith Reports, N. Y. Common Pleas, 458—486.*)

The decisions of the State courts have, however, been against the correctness and soundness of these Opinions. (*The Fire Department vs. Noble*, 3 E. D. Smith Rep. 440; *The Same vs. Wright*, id., p. 453; *People vs. Inlay*, 20 Barb. Sup. Court Rep., 68; *Bard vs. Poole*, 12 N. Y. (2 Kern.) Rep. 495, 504; *Tatem vs. Wright*, 3 Zabz. Rep., New Jersey, 429.)

But for the purpose of suing and being sued in the United States Courts, a State corporation is considered as an artificial person and citizen of the State in which it was created—per WAYNE, J., in *Louisville Railroad Company vs. Letson*, 2 How. Rep. Sup. Court United States, 555, 558.

Whatever decisions may have been, or will hereafter be made on these points, either in the State or the United States courts, it is incontrovertible that for the purposes of strengthening our inter-state relations and subserving the best interests of the American people, no invidious or unfair discrimination should ever be made by any State against the free and unrestricted transaction of business within its limits by the corporations of sister States, subject only to the same rules and regulations, as near as may be, which are applied to domestic companies.

HAMILTON says, that "It may be esteemed the basis of the Union that the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States." (*Federalist*, No. lxx.)

DENIO, Ch. J., says, that "No provision in that instrument has so strongly tended to constitute the citizens of the United States one people as this." (*Lemmon vs. People*, 20 N. Y. Rep. p. 607.)

It is not a violation of the letter only, of this Article, which is obnoxious to true patriotism and American nationality; its pervading spirit and object should inspire reverence and sacred regard in all our inter-state relations.

Says MARSHALL, Ch. J., "A Constitution from its nature deals in generals, not in detail. Its framers cannot perceive minute distinctions, which arise in the progress of the nation, and therefore confine it to broad and general principles." (*Bank of the United States vs. Devaux et al.*, 5 Cranch. Rep. 87.)

It is possible that under the power to regulate Commerce among the several States (*see Art. 1, sec. 8, sub. 3*), the right inheres in Congress to prescribe rules and regulations for the governance of inter-state corporate Underwriting, thereby ensuring a uniform and harmonious system in lieu of the varying and dissimilar requirements of the different States. If such latent power exists, the potential exercise of it will undoubtedly be held in abeyance, so long as the several States, in a true spirit of honorable and fraternal intercourse, refuse to impose prohibitory burthens on their brethren, and grant them substantially the same rights, privileges and immunities bestowed upon their own corporations. The inherent justice and equity of this policy is sanctioned by the express provisions of our Constitution as applicable to the citizens of each State, while the necessity of extending the same rule to corporations is daily increasing, and with a restored and homogeneous Union of freemen will be more desirable in the future, than in any former period of our history. The States should cer-

tainly grant to each other the same privileges which the advancing civilization of the age induces Great Britain and other foreign nations to give to each other by Treaty stipulations.

The States are inhibited by the Constitution from making any Treaty, alliance or confederation, and also from entering into any agreement or compact, with another State, without the consent of Congress. (*See Art. I, sec. 10.*) Unless, however, the legislation of the various States can be made to harmonize on a sound and just basis of reciprocity and fair dealing, compacts or conventions between assenting States can be negotiated on this subject with the consent of Congress. Such a proceeding would, however, be undesirable, and might be more troublesome and unsatisfactory than a direct effort to procure an amendment of the Constitution, making the first subdivision of section second of Article fourth expressly applicable to *corporations* as well as *citizens*.

The Insurance legislation of New York carefully discriminates between the companies of other States and those of foreign countries, never designating the former as "*foreign*" corporations. Such a designation, interwoven into the statutes of so many of our sister States, is disloyal in its tendencies, malign and pernicious in its influence on judicial decisions and State legislation. Massachusetts, which uses this word as applicable to the companies of other States, appreciating its incorrectness, has been driven to the necessity of defining it by a special section of her general Act. (*See sec. 7^s, Chap. 156 of the Acts of 1860.*)

The relations of the States of the American Union to each other are *sui generis*, and without any precedent in political history; the laws of nations do not therefore, fully define the extraordinary obligations and comity required by our inter-state relations. The corporations of sister States are not "*foreign*," they may be *quasi* foreign or extra-territorial; but no American company should be designated in the statute books of any American State as "*foreign*." The word as thus applied should be entirely eliminated from our statute books. It is diametrically opposed to that catholic spirit of brotherhood and patriotism which inspired our revolutionary fathers, and which has now been re-baptized on so many fields of battle by the commingled blood of all the loyal States.

In order to give Insurance corporations an adequate field for legitimate future growth and expansion, the utmost freedom, consistent with soundness and safety should prevail in permitting the corporations of one State to transact business in any other State of the Union. The deposit law of the State of Tennessee was passed on the 29th day of March, 1860, a few months before her secession from the Union; the deposits became greatly depreciated in value, and the rebel State officers have also absconded with the stocks. As a preliminary step to contemplated secession, this disloyal and unsound legislation and fraud was in entire harmony with the treacherous plans and schemes of the Rebels. Such laws are necessarily inimical to the old Union, and that free and unrestricted commercial intercourse between the States, which should always be fostered and encouraged by every true friend of the Republic. The business traffic and social intercourse between the States on the suppression of the Rebellion, unless embarrassed by non-intercourse laws, will exceed all former precedent. The stream of

travel will cross the continent in all directions, not running as formerly mainly on the parallels of latitude. Insurance companies should be allowed the same freedom. The tax gatherer and custom house official should not, as in the lesser kingdoms of Europe, be located on every State line, with extortionate demands and levies on American companies, incorrectly and improperly styled "foreign" corporations.

The question on this whole subject must sooner or later be narrowed down to a single inquiry,—that of inter-state Justice and Comity as between the different States of the Union. No system founded on injustice, or State cupidity, or jealousy, can ever be permanently forced upon the American people. We are to constitute one vast consolidated and homogeneous Republic, not a confederacy or congeries of States, always fighting each other and the general Government. It will not long be tolerated by the people of any State that for the purpose of protecting, at their expense, local and personal interests of rival and competing corporations, the free and honorable competition of the citizens and companies of other States should be interdicted. By giving all Insurance companies a fair field for business and competition through all the States of the Union, subject, however, to the most rigid system of personal inspection and examination, and Annual Statements of their condition and affairs, the rates of premium will be kept down to the lowest standard of safety, and those companies which best subserve and protect the public interests, wherever located, will obtain, as they always should, the largest and most extensive patronage. State Insurance monopolies will always enhance premiums and lessen security in any great conflagration. Whatever may be thought of Free Trade, as between foreign nations, there cannot surely be any doubt that Free Trade from the Atlantic to the Pacific should be the established rule of Legislative policy throughout the Republic. The miner of Colorado, Nevada and California will not and should not leave his mines of silver and gold, to organize an Insurance company where the margin of profit is small, and where a score of years is needed to build up an established and steady business. The regenerated cotton planter of the Mississippi, the Sea Islands and the Gulf States, when his broad acres are blessed with the whiteness of blossoming beauty, will not leave the wealth and riches spread out before him with each returning Spring, for the dark office of the Underwriter, where only the sacrifice and devotion of a lifetime, even under favorable auspices, can obtain a marked success and prosperity. It is natural, and not to be deprecated, that the older States,—where the avenues to immediate and sudden wealth are less numerous, and where capital has been accumulating for many years, and old companies are reaping the fruits of long experience,—should assume a leading position in all departments of Underwriting. This natural and necessary sequence affords no just ground for jealousy or envy in the younger States, or for the erection of Chinese walls of seclusion and non-intercourse. In the fullness of time, if other financial schemes do not afford superior inducements, domestic and home Insurance companies will be organized to the full satisfaction of the people in all the States; and sound companies from any State of the Union are now freely welcomed and admitted into this State, on the same basis as far as practicable, with our own companies.

EXTRACTS from an opinion of CHARLES TRACY, Esq.

The business of Insurance has become an essential part of the commerce among the several States and with foreign nations, the regulation of which belongs to Congress. Goods shipped by railroad, canal, river, or lake routes, from the seaboard cities to all points in the interior; and produce moving from every part of the country to its markets, must cross many State lines; and an insurance against loss or damage by fire or by the perils of transport, is a necessary as well as common precaution in the due course of business. A policy issued at New York or at Chicago therefore has its performance in every intermediate State; and if the local laws and regulations in those States, affecting the contract, differ, the parties are involved in perplexity.

In order to the best and most effective conducting of the wide inter-state commerce of this broad country, it has become a national necessity that both money, the grand agent of commerce, and insurance, its grand protection—each an essential part of commerce itself—should be regulated by Congress, and made uniform and well guarded by national laws.

The first principles of Insurance require that the soundness of the Insurance companies, in respect of Capital and the fidelity and fairness in management, should be secured by governmental action. The State governments, assuming this duty, have proceeded in different and ever varying ways to accomplish it; but, as in the case of Banking Institutions, the success of State government in this respect has not been uniform nor satisfactory. The time has come for the Federal government to take this matter in hand, and pass laws for the establishment of Insurance companies, with ample Capital, uniform organization and systematic reports of their condition; and to confer upon all companies conforming to such requirements, a national character, which may enable them to issue policies in every part of the Union, and to cover risks without restriction as to their location.

The constitutionality of the proposed National Insurance Law, when enacted by Congress, is clear. The power of Congress to regulate commerce among the States and with foreign nations, and to borrow money on the credit of the United States, and to protect and establish the credit of the national debt so formed, are the foundation of our National Banking system; and the exercise of this power in establishing a kindred National Insurance system is called for by the necessities of the country. Ours is a great commercial nation. The property in stores and in manufactories, and moving along our great avenues of transportation, represents the capital of our immense and rapidly increasing trade. The provision for its Insurance is a matter of national concern; and the United States Government, in wisely regulating the business of Insurance, will strengthen the Treasury, confirm the credit of the public debt and advance the general welfare. Congress is the judge of what measures are necessary and proper to effect these important ends, and when Congress shall adopt the plan of National Insurance companies based on a Capital invested in the public debt, the validity of the law will be indisputable.

CHARLES TRACY.

No. 50 WALL ST., New-York, July 2nd, 1865.

This opinion has received the unqualified approval of Hon. CALHOUN and others of kindred ability.

COMMERCE DEFINED.

1. COMMERCE—*In a strict sense*, Traffic in merchandize. (*Burrill's Law Dict.*)

2. COMMERCE—*In a general sense*, an interchange or mutual change of goods, wares, productions or property of any kind, between nations or individuals, either by barter or by purchase and sale.

Trade; traffic.

Commerce is *foreign* or *inland*. *Foreign* commerce is the trade which one nation carries on with another; *inland* commerce, or inland trade, is the trade in the exchange of commodities between citizens of the same nation or state.

3. Intercourse between individuals, interchange of work, business, civilities or amusements; mutual dealings in common life.

ACTIVE COMMERCE: The commerce in which a nation carries its own productions and foreign commodities in its own ships, or which is prosecuted by its own citizens; as contra-distinguished from *passive* commerce, in which the productions of one country are transported by the people of another country.

The commerce of Great Britain is *active*; and that of China is *passive*. (*Webster*.)

4. COMMERCE—*In a critical sense*; from *con* and *merx*, signifies a mutual selling or traffic; and, in ordinary and practical acceptation, it means trade, bargain, sale, exchange, barter—embracing these both as its means and objects. (*Opinion Daniel J. T. How., U. S. Supreme Ct. R., 501.*)

U. S. CONSTITUTION AND INTERPRETATIONS.

The Congress shall have power to regulate commerce, with foreign nations, and among the several States, and with the Indian Tribes. (*Const. U. S., Art. 1, § 8, Sub. 3.*)

The word *Commerce*, as used in Art. 1, § 8, Sub. 3, of the United States Constitution, is not limited to the mere buying and selling of merchandize and other commodities, but comprehends the entire commercial intercourse

with foreign nations ; and among the several States, it includes navigation, as well as traffic, in its ordinary signification. The power of regulation vested in Congress relates to all these subjects. (*People v. Brooks*, 4 *Denio*, 469).

Under the above provision of the Constitution, the Federal Government has exclusive power to regulate the external commerce of the nation, and of the respective States ; to determine the terms and conditions upon which, and to prescribe the regulations by which, the commodities and products of one State, should be permitted to be introduced into another ; or exports should be made, from State to State, or through the several territorial sovereignties. (4 *N. Y. Legal Observer*, 187).

The article of Confederation regulating commerce between the States reads as follows :

The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of these States (paupers, vagabonds and fugitives from justice excepted) shall be entitled to all privileges and immunities of free citizens in the several States ; and the people of each State shall have free ingress and egress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions, as the inhabitants thereof respectively ; provided that such restrictions shall not extend so far as to prevent the removal of property, imported into any State to any other State of which the owner is an inhabitant ; provided, also, that no imposition, duties or restriction, shall be laid by any State on the property of the United States, or either of them. (*Art's Confed. Art. 4.*)

As the avowed object of the framers of the Constitution was, among other things, " to form a more perfect union "

of the States; "to insure domestic tranquility," all the force which inheres in this fourth Article of Confederation, is likewise embraced (though in a more condensed form) in the corresponding article of the Constitution of the United States.

It provides that, "The people of each State shall have free ingress and egress, to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively.

Unharmonious and conflicting State action, necessitated the adoption of this clause in the Articles of Confederation, from which they were afterwards engrafted into the present Constitution of the United States.

Hamilton, in reference to this point, says, "The interfering and un-neighborly regulations of some States, contrary to the true spirit of the Union, have given fair cause of complaint to others, and, *if not restrained by national control*, will become injurious impediments between the different parts of the confederacy." (*Federalist*, No. 22, p. 116.)

Mr. Hamilton further gives it as his opinion, that, "from the gradual conflict of State regulations, citizens of each would at length come to be treated in no better light than that of foreigners and aliens."

1. The provision of the Constitution, relative to the regulation of commerce between the several States, arose from a condition of conflicting State enactments, analagous to the conflicting local laws now enacted by the legislatures of many of the States.

2. The term *commerce*, as used in the section of the constitution, giving to Congress the power of its regulation: "comprehends the entire commercial intercourse with foreign nations, and among the several States." (*The People vs. Brooks*, 4 Denio, 469.)

3. The word *intercourse* has a general signification. It is defined by Webster as "reciprocal dealings between persons or nations, by an interchange of commodities, by purchase and sale, by treaties, by *contracts*, &c."

4. The contract with an insurance corporation or agent, by which the safety of goods and commodities that give rise to commerce, is assured to the owner, and indemnity promised in case of loss, either while in transit from State to State, or while stationary, is as properly included under the power of Congress to regulate intercourse between the several States, as is the contract for the purchase or sale of such commodity, or for its transportation from one point to another included in the said power.

5. "This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are presented in the constitution." (*Gibbons vs. Ogden*, 9 Wheaton, 196.)

6. "The power to regulate commerce extends to every species of commercial intercourse among the several States." (9 *Wheaton*, 19.)

7. "It does not stop at the jurisdictional lines of the several States, but must be exercised wherever the subject exists." (9 *Wheaton*, 194, 196.)

8. "A State has no power to declare what should be an article of lawful commerce under the provision of the United States Constitution.

"The power of Congress to regulate commerce is subject to no such limitation." (*Opinion*, Catron, J., 5 How., 544.)

9. "Hence the jurisdiction of Congress over the entire subject is unlimited, and the power of Congress to control all cases included under commercial interests unlimited." (*ib.*)

P. J. A.

EXTRACTS from the Argument of WILLIAM CURTIS NOYES;
(The Fire Department v. Wright, 3 E. D. Smith's
R., 464.)

(1.) A domestic corporation, credited to carry on the business of insurance, is a citizen of this State; entitled as such to all the rights of such a citizen, which from the character of its existence, as an artificial being, relate entirely to its franchises and property. (*Louisville R. R. Co. v. Letson, 2 How. U. S. R., 497*); (*Conroe v. National Protection Insurance Co., 10 How. Pr. R., 403.*)

(2.) As such citizen, and in respect of its franchises and property, it is also a person, and as such entitled to all the rights of such a person. (*2 R. S., 703, § 35*); (*People v. Utica Ins. Co., 15 J. R., 358.*)

(3.) They are also inhabitants of the State under whose laws they are created, and in which they have their office and carry on their business. (*Ontario Bank v. Bunnell, 10 Wend., 186.*)

(4.) As the owner of its property, such a corporation is entitled to the same protection as any individual citizen; and its private property can only be taken for public or private use, in the same manner, and under the same circumstances, as the private property of an individual. (*The Bellona Case, 3 Bland, 451-2.*)

(5.) Private property shall not be taken for public use, without just compensation. (*Amendments Const. U. S., Art. 5.*)

(6.) The Citizens of each State shall be entitled to all the privileges and immunities of the citizens of the several States. (*Const. U. S., Sec. 2, Art. 3.*)

(7.) A corporation of a sister State has precisely the same rights as those above enumerated, in the State which created it, and where it transacts its business.

(8.) The Constitution of the United States recognizes corporations created by the several States, as citizens and persons in all other States, where they transact business. (*Cases under point VII, Sub. 1, 13 Peters, 519, 588.*)

(9.) It follows, therefore, that under the foregoing clause of the Constitution of the United States, a corporation created by, and being a citizen of one State, is entitled in each State, to all the "privileges and immunities" of similar citizens of that State. If this clause protects a natural person, who is a citizen, it also protects an artificial person, who is also a citizen, under the Constitution; so that one State should not put its own artificial citizens upon any better footing than a like citizen of another State, or make any unjust discrimination between them to the prejudice of such citizen of another State.

NEW YORK LAW.

Where the term *person*, or *persons* is used, in sections 18 and 20, of title 2, chapter 13, of the first part of the revised statutes, and in sections 5, 6, and 7, of chapter 176 of the laws of 1851, such term shall be construed to include *corporations*, as well as individuals. (*Laws of New York*, 1857, chap. 536, § 3).

These sections relate to the correction of the assessment rolls, corporations being, in this instance, persons and citizens by State enactment.

ON TAXING PREMIUMS OF INSURANCE.

OPINION OF JUDGE SKINNER.

I am asked whether the 6th, 7th, 8th and 9th Sections of the Act to incorporate "The Firemen's Benevolent Association of the City of Chicago," passed June 21st, 1852, are constitutional and binding.

Our State Constitution contains a provision common to all the State Constitutions of our sister States, that "no freeman shall in any manner be deprived of his life, liberty or property, but by the judgment of his peers, or the law of the land."

The meaning and effect of this provision has been frequently adjudicated, and is now thoroughly understood. So far as it relates to the right of property, it absolutely prohibits the legislature from passing any laws, the effect of which would be to dispossess any man of any portion of his property, excepting when the same may be required for public purposes, or in the administration of justice. By other clauses of the Constitution, the power of the legislature to pass laws, the effect of which are to seize and appropriate the private property of individuals for public purposes, whether by forcible seizure or by taxation, is limited and guarded.

The clause above quoted, whilst contemplating and virtually authorizing the passage of such laws as may be necessary for the due administration of justice, effectually inhibits the legislature from passing any laws which would have the effect to deprive any person of any portion of his property in any case, or for any purpose not warranted by other clauses of the Constitution.

A careful examination of the Constitution shows that the legislature cannot pass laws whereby a man may be deprived of any portion of his property, excepting as follows:

1st. Laws authorizing the appropriation of any specific portion of a man's property for *public* purposes, but for no other, upon first making him due and just compensation therefor.

COPY OF A LETTER FROM THE HON. DANIEL WEBSTER.

Washington, April 13, 1847.

I have your letter of the 10th instant.

I remember to have given such an opinion as you speak of, but have no copy here, nor have I now either the time or the means of drawing up another opinion on the subject.

I remember that my opinion was a good deal founded on or strengthened by a judgment of Mr. Justice Washington, in the Circuit Court of Philadelphia. The question never appeared to me doubtful.

It may, perhaps, be conceded that since corporations are artificial beings, the creatures of State Statutes and not "citizens," a State may, if it so please, refuse to such corporations, when created by the law of another State, a right to sue in its courts, but this would be going very far. But to tax business transactions allowed to be conducted in the State when performed by the citizens of other States, while such transactions are untaxed when occurring between those who are citizens of the State itself, always seemed to me against the constitutional provision. Citizens of Pennsylvania or Massachusetts are found in New York engaged in mercantile transactions, either among themselves or with citizens of New York, giving and receiving promissory notes and bills of exchange. Could the Legislature of New York lay a *stamp tax* on such bills and notes, no such tax being imposed generally upon all bills and notes? Allow me to say that if it were in my power to comply with your request, either by furnishing a copy of the opinion referred to, or by drawing a new one with a short statement of reasons and references to authorities, I should hardly make it matter of charge, when the occasion was public, and the opinion requested only for the purpose of suggestions to those who have duties to perform.

Signed,

DANIEL WEBSTER.

 OPINION OF CHIEF JUSTICE JONES.

I have perused the opinions of Mr. Webster and Mr. Wood on the subject to which they relate, and I concur with them in opinion, that a tax upon any lawful business within the State, when carried on by citizens of other States, when such transactions are untaxed while carried on by those who are citizens of this State, is unconstitutional; and that the act of the Legislature imposing upon individuals or associations not incorporated by the laws of the State, though incorporated in any other State, a tax of two per cent. on the amount of premiums for effecting insurance, cannot be constitutional. The right of the Legislature to impose such a tax upon such a business operation, is not questioned, provided the tax so imposed be general, and proportionally-equal upon all persons who are engaged in such business transactions. The Legislature may, for purposes of revenue, select such subjects for taxation as they may deem most suitable and best calculated to effect the object, with the least inconvenience to and pressure upon the community; but they are not warranted in making invidious and injurious distinctions between individuals or classes, in the imposition of a

tax on property in any branch of business. I can see no just or sufficient ground of discrimination between the case of corporations of this State, or of any sister State, and that of individuals. A State Legislature cannot impose unequal taxes on the citizens of this State and those of other States doing business therein. They must all be placed on the same footing. The same rule appears to me to apply to corporations. A corporation composed of citizens of a sister State engaged in the business of insurance in this State, can be subjected to the same tax only as shall be imposed on a corporate body created by the Legislature of our own State. The citizens of a sister State do not lose the constitutional right to the same privileges in their lawful occupations and business pursuits in this State with our own citizens, merely because they are associated and are acting in a corporate capacity.

Signed,

SAMUEL JONES.

New York, February 8, 1850.

The following is claimed as the pioneer article on the subject of National Insurance :

From the Wall Street Underwriter, November 30, 1864.

UNITED STATES AND NATIONAL INSURANCE COMPANIES.

"When in the course of human events" improvements are necessary they are accomplished.

The successful establishment of the National Banks, founded on United States Securities, has given rise to the question "Why not have National Insurance Companies also?" This question cannot be answered either yes or no, without some serious, anxious reflection. Upon the very threshold of the inquiry falls the broad shadow of a puissant body called "States Rights." How would such a scheme interfere with State Rights? It would confer upon corporations created by Congress, the right to transact insurance business in every state and territory of the Union, free from let or hindrance at the hands of any state or local authority, without charter or license from any local power, and free from all local taxes or impositions. This would simplify and facilitate the transaction of insurance business throughout the country. But it would unquestionably so far interfere with the rights or privileges hitherto exercised by each state as to in a measure supersede them by the exercise of a power paramount. Yet it would not, could not preclude any state or territory from exercising the same power in a collateral degree within its own jurisdiction. State legislatures could still charter insurance companies for local business, being in fact all that any state could ever do. Congress could confer the additional power on all state companies upon certain conditions of operating throughout the entire Union. At present it is on the constitutional ground that United States citizens shall enjoy all their privileges and immunities in common without any territorial limit that the companies of one state carry on business in another state. If any state should pass unconstitutional prohibitory laws in this regard, it is in the power of Congress or of the United States Supreme Court as the executive agent of Congress to abrogate such laws.

The power to regulate trade and commerce as between the several states being vested in Congress, cannot that power be exercised to regulate the business of insurance which is merely a department or auxiliary of commerce, as between the several states? This could be effected by empowering all the companies now organized, or hereafter to be organized in the several states, to transact business throughout the Union upon the terms of investing their capital or one-half or three-fourths of same in United States Securities, such portion to be free from taxation and to account annually to a Central Insurance Bureau to be organized at Washington. The material for the organization of such a National Bureau is ready to hand. New-York and Massachusetts could already furnish competent skilled chiefs for such a Bureau in the persons of Mr. Barnes and Mr. Wright.

If this idea be ever wrought out into practical form and being, there will be an end to all the inconveniences of state deposits, such as that now required, (\$75,000) in California for instance, and Fire, Life and Marine Companies carrying on extensive business throughout the Union, will be relieved from the offensive burdens of state and city taxes, and voluminous state returns scattered through various portions of the year, interfering vexatiously with the conduct of business. Furthermore the expenses of managing insurance business would be reduced so far as relates to the cost attending investments of capital and assets. The title to a United States Bond is simplicity personified as compared with a mortgage on real-estate.

Then, would the security to the public be at all weakened by this plan? We cannot see that it would in the slightest degree. On the contrary, the means of recovering against insurance companies in cases of litigation in any part of the country would be made a very simple process involving no question of local jurisdiction, security for costs, or difficulty in discovering or realizing assets. In submitting this plan for consideration, we are fully aware that we are merely giving embodiment to ideas that have been entertained for some time by reflecting underwriters. The subject affords ample opportunity for discussion. On another occasion we may consider the feasibility of the National Government granting annuities immediate or deferred, for money deposited with the U. S. Treasury.

From the Insurance Monitor.

WESTERN ADVOCACY OF A NATIONAL INSURANCE BUREAU.

I see, from your last number, and from other sources, that a movement is contemplated to obtain from Congress a National Insurance Law. I sincerely trust it may succeed—its benefits will redound mainly to the West. It is so difficult to discern between reliable and unreliable companies as they come to us here that we need a stamp—the great broad seal of the Government—in the foreheads of all candidates for public confidence. We western people *know* that a greenback is good, we also know that an eastern or western bank bill, not a greenback, *may* be good, but we reject it and prefer the greenback. It will be just so in Insurance as soon as you nationalize it. If the Home Insurance Company of Cincinnati can make compliance with a national law and obtain the Government insignia, then its

policies will be as good as those of the Home of New York and just as popular—not only here but throughout the Union. So the Mutual Life of Wisconsin may become the peer of the Mutual Life of New York; the *Ætna* Fire of Illinois the equal of the *Ætna* Fire of Hartford, and so on. It is a grand scheme, and one that the *people* have a direct interest in. What we want is security—absolute protection from any legitimate, honorable source that will serve us best, and we feel that “National” Insurance Companies *will* do the work best. It is impossible for the Insurance companies of any one section to do the whole business of that section, and in no place is that more sensibly felt than in your city of New York where you have more local companies and more agencies than at any other point in the Union. Heavy calls have recently been made upon the companies of western cities for lines, on cotton and other merchandise stored in New York, but we can only issue policies from here, we cannot plant our agencies in New York and share the rich harvest there because of the stringent local legislation of that State. A national law would remove our disabilities and put us on a par with the companies of the eastern States.

Oh, that there were a Webster in Congress to put this measure through! He was ever the friend of the West and the friend of every broad comprehensive measure that embraces the *whole Union* within its arms. He would have demonstrated the constitutionality of this project as he did of the other great works of internal improvement, national in their character, prominent in his day. I never read the speech he made at Madison, Indiana, in June, 1837, without renewed admiration for the broad, national, comprehensive structure of the man and that sublime instrument, the CONSTITUTION, of which he was the great apostle and expounder. Please give place to the following extract; it is pertinent to the subject in hand, and a scathing rebuke to the narrow, petty spirit that has dictated the State legislation on Insurance here and everywhere throughout the Union.

Speaking of the constitutional right of Congress to improve the navigation of our great internal rivers, and to construct roads through the different States, he said: “That they are local in their advantages is an objection that has been and will be urged against every measure of the kind. In a country so widely extended as ours, so diversified in its interests and in the character of its people, it is impossible that the operation of any measure should effect all alike. Each has its own peculiar interest, whose advancement it seeks; we have the sea coast and you the noble river that flows at your feet. So it must ever be. Go to the smallest Government in the world, the republic of San Marino, in Italy, possessing a territory of but ten miles square, and you will find its citizens, separated but by a few miles, having some interests which, on account of local situation, are separate and distinct! There is not on the face of the earth a plain five miles in extent, whose inhabitants are all the same in their pursuits and pleasures. Some will live near a creek, others near a hill, which, when any measure is proposed for the general benefit, will give rise to jarring claims and opposing interests. In such cases it has always appeared to me that the point to be examined was, whether the principle was general. If the principle were general, although the application might be partial, I cheerfully and zealously gave it my support.”

Let such noble, national sentiments as these pervade Congress and we shall have a National Insurance Law that will be a blessing to the whole country.

A WESTERN UNDERWRITER.

From the Northwestern Insurance Journal, Chicago, Ill.

THE NATIONAL INSURANCE LAW.

In our last issue, we presented our views as the matter had then been presented to us. Insurance interests in the West has become so thoroughly interwoven with our mercantile and financial being that we do not for a moment hesitate to fully commend the proposed act as published by us in a Supplement to our January Number.

The early creation of the National Insurance Bureau is needed by the insurants of our Western States, solely as a matter of protection; but we regard it not only as desirable in affording certain protection to the people throughout the country, but also in allowing the people through companies, organized under the act, or companies now existing, complying with said act, to aid the Government in the great financial problem of funding a portion of the public debt. This feature of the act should be of sufficient importance to at once place the matter before Congress, and we doubt not that with this view of the law there can be no question as to its immediate passage.

In another column of the Journal will be found mentioned other advantages to be gained by the Nationalizing the business of Insurance, both Life and Fire, and we are not without confidence that many Western Insurance Companies will give their hearty approval and manly endorsement of the measure.

From the Banking & Insurance Chronicle, Chicago, Ill.

NATIONAL INSURANCE LAW.

We are glad to note an increased public interest in the above measure, manifested by the general press, as well as by Insurance journals. Whether the law about to come before Congress (a summary of which we gave last week) will pass, in its present form, or even at all, is doubtful; but we may look for good results to follow from the discussion of the matter, with, we may hope, some beneficial effects upon State legislation. It is not easy to settle at once upon all the details desirable in a general law for nationalizing all classes of Insurance Companies; progress in legislation in a matter of so great importance, may properly be slow, and should be exceedingly sure.

The incidental advantages to be realized by creation of a National Insurance Bureau are many. The chief ones are, first, the adoption of uniform rules for the estimation of the liabilities and resources of Insurance Companies to be employed as tests of solvency; no Company being allowed to transact further business, under the National law, unless or until its as-

sets are sufficient in proportion to its obligations, according to the standard of valuation. Second, relief from arbitrary and oppressive State legislation.

The many weighty reasons for the passage of a National Insurance law apply with especial force in respect to Life Companies. Fire Companies are, in many senses, local institutions; some of the most successful of them (in results to the assured) have confined their business within narrow territorial limits. The nature of Life Insurance is far different. The law of mortality (without security in which there can be no security in Life Insurance) requires for its full and fair operation, a large number of persons, scattered over a wide extent of territory. (Contrast the position of a Company, in a season of cholera, or other pestilence, having five thousand lives insured, say in New York and Philadelphia, with that of another Company having the same number insured, scattered throughout the twenty-two States north and east of, and including Virginia, Tennessee and Missouri.) Yet in many instances, we see State legislation as regardless of the nature of Life Insurance, which for its own safety, needs a wide field, as it is of the entirely humane character of the institution.

We will not stop here to speak of existing State legislation—a subject which demands a chapter by itself; but the reflection, how little such legislation has accomplished for the security of the assured, (notably excepting the State of Massachusetts,) brings us to consider how much will be done in this respect by the establishment of a National Bureau. It is not so well known as it should be, that the ordinary commercial tests of solvency have little or no applicability to Life Insurance. The Companies are daily receiving funds, a large portion of which are to be finally accounted for a generation hence. The calculations as to the amount of assets necessary to be on hand at present, against these liabilities, are intricate—even difficult. The people at large never can estimate these things accurately, but the National Bureau will have its standard of valuation established by law, and no Company will be permitted to do business unless its assets are up to the standard. Every insurant will then know that the institution to which he confides the "sacred legacy for his family," is secure (so far as wise preventive and supervisory law can make it so) in ability to discharge its obligations.

The amount of Life Insurance in force in the United States, probably exceeds \$600,000,000, on which the sums annually received in premiums and interest exceed \$22,000,000. Looking at the immense magnitude of the interests involved, we may see how much they demand, for their preservation, a system of National legislation, careful, well considered, far-seeing and abounding in provisions for the security of the assured.

If there could be brought about united action on the part of those who are annually paying premiums on this \$600,000,000 of insurance, they would, we doubt not, make such an appeal to Congress as would result in the immediate passage of a National Law. In the absence of such united action, let us hope that some member of Congress will undertake the energetic advocacy of the measure, and labor unceasingly in its behalf until he has secured its enactment.

From the Insurance Monitor.

CONSTITUTIONAL REMEDY AGAINST OPPRESSIVE STATE INSURANCE LAWS.

A people cannot be too jealous of its liberties. They are liable to assault and subversion from the most unsuspected quarters and nothing but the exercise of constant watchfulness can preserve them unimpaired. What danger to our free institutions could have been apprehended from so innocent a source as insurance? Yet have our meddling politicians contrived to employ it as an instrument for obstructing and even preventing the inter-commerce of the States.

The fourth article, second section, of the Constitution of the United States declares that "*The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.*" It follows that any citizen of the United States, desirous of purchasing a policy of insurance on his life, his house, or his ship, enjoys the "privilege and immunity" of applying for and procuring the same from any party or corporation in his own or any other State, or even foreign country, and if his right to do this in person be indisputable, he is also equally privileged to do it by letter or through his agent, and any State law ignoring this national "privilege and immunity," should at once be declared subversive, unconstitutional and void.

For the sake of affording a practical illustration of the principle we advocate, we will suppose that a citizen of Wisconsin desires policies of insurance from companies chartered by other States, but which companies, in consequence of the oppressive legislation of his own State, decline to appoint agents in it. The question arises, how shall he obtain these policies? As a citizen of the United States he has the undoubted right to apply for them personally, and surely his right to appoint another citizen his agent to do this business for him, is equally unquestionable. If so, any number of citizens may appoint the same man their agent for the same purpose, and no State law, contravening this constitutional and inherent right, can be enacted which the United States Court would regard for a moment.

It accordingly appears that a plain, simple, legal way, founded upon general and constitutional principles, still remains open to our insurance companies for the continuance of their business throughout the Union, in spite of the adverse and vexatious legislation of many of the States. The change of method it will necessitate may, at the outset, subject them to temporary inconvenience, but it will prove light in comparison with the evils and losses consequent upon a slavish compliance with unrighteous state requisitions.

Now we propose a remedy. Let a consultation of the insurance companies on this subject at once be held, and the right alternative—an absolute refusal to comply with unjust State exactions—be promptly adopted; then let the companies give notice that they will receive applications for insurance from citizens of other States in person, by letter, or through their agents.

This action will forever rid them of a burden which neither their business nor their charters will enable them to sustain. A course so decisive and resolute will at the same time administer a needful lesson to State legisla-

tures, and perhaps convince them that they cannot with impunity usurp authority and rob companies that have always evinced a ready willingness to pay a fair amount toward defraying the expenses of the government of any State to which they have extended their business.

We refer below to the Insurance Law of Wisconsin, which is a fair index to that of other States, and should serve as a warning to the people that it is quite time that they took the matter into their own hands, and reminded the petty politicians who have transformed it into an engine of extortion and tyranny, that they are only our servants, and that we are still the sovereigns of this one and indivisible country, and must and will, in spite of them and their unconstitutional State laws, have free insurance, the cheapest and the best that can be procured.

WANTED—A NATIONAL INSURANCE BUREAU.

We cut the subjoined timely and pertinent remarks from a late number of the *Traveler's Record* :

The insurance interest is one of the most important interests in the country, and is rapidly increasing. The number of fire, life, and marine insurance companies is legion, and new ones are chartered at every session of every State legislature.

The Insurance laws of the different States are exceedingly diverse and oppressive. While one State is liberal, allowing its citizens to take their own choice of companies, others place unjust restrictions upon all outside companies, which either greatly embarrass their operations or virtually exclude them from doing business there. Pennsylvania, till very recently, required all insurance companies outside the State to pay a license of \$100 to \$200 for each county, (it has 65 counties, and the total license was \$6,700 for the State,) but this demand has been modified to \$600 for the State; Wisconsin requires a deposit of \$25,000 in "Stamp Tail" Bonds *at par*; and Nevada requires a deposit of \$50,000 in Bonds of that State. Other legislatures are provoked into retaliatory measures, and companies that for years have been established and doing business in certain States suddenly find themselves hampered with embarrassing requirements.

If the plan of \$25,000 and \$50,000 deposits in each State is to become universal, few companies will have sufficient capital to make all the deposits required, or would find it profitable to make them if so disposed. The effect of these unjust requirements will react upon the people, who are the parties mainly interested after all. All these matters could be settled by a *National Insurance Bureau*.

From the Insurance Monitor.

NATIONAL BUREAU OF LIFE INSURANCE.

Near the close of the last session of the United States Congress, a memorial was presented, bearing the signatures of many prominent persons, asking for the establishment of a National Bureau of Life Insurance. It

COPY OF OPINION OF GEORGE WOOD, ESQ.

I have examined the act in the first Revised Statutes, page 714.

The third section of that act imposes a tax upon any individual or association not incorporated by the laws of this State, though incorporated in any other State, of ten per cent. on premiums for effecting insurances. The design of this act was unquestionably to prevent corporations in the sister States from doing the business of insurance in this State otherwise than by the imposition of onerous restrictions, which should cause them to transact such business to great disadvantage, and prevent them from coming into fair competition with New-York corporations.

The act of 1847 reduces the tax from ten to two per cent. but the principle is the same.

I think this provision is unconstitutional. It is a tax on business. The Legislature no doubt have a right to impose such a tax. They may select such subjects for taxation as they may deem best fitted to bear the burden. But I presume it will not be contended that the Legislature can make invidious distinctions between individuals or classes in imposing a tax on property or any branch of business. They could not, for instance, enact that merchants who should underwrite, should pay such a tax on the amount of their premiums, and that mechanics should be exempt from it, or *vice versa*.

The raising of a tax is the taking of private property for public use. When a tax is general, every individual taxed receives a just compensation or equivalent in the protection he derives from government. But if invidious distinctions should be drawn in taxation, in reference to the same subjects of taxation, every one must perceive and feel that there is the absence of just compensation. I can perceive no substantial distinction between the attempt in the present case to discriminate between corporations of this State and other States, and a like attempt at discrimination between individuals.

Clearly, a State Legislature could not impose unequal taxes upon citizens, and the citizens of other States doing business in such State. They must all, in this respect, stand upon an equal footing.

The same may be said of corporations. The Legislature does not prohibit the citizens of Pennsylvania, incorporated under Pennsylvania laws from doing the business of insurance in this State. When thus engaged, such Pennsylvania corporation is pursuing a lawful calling. In the pursuit of that business, I think they can be subjected only to the same tax as shall be imposed on a New York corporation.

The citizens of a sister State do not lose their constitutional rights to the enjoyment of the same privileges with the citizens of this State in transacting a legitimate business here, merely because they are acting in a corporate capacity.

Signed, GEORGE WOOD.

New-York, April 16, 1847.

ments, and persons there enumerated, excepting *by way of taxes*. Call it license or what you will, it is still only a tax, and must have all the features and characteristics of taxation. It must be imposed for the *public benefit*, and its proceeds must be applied for the *public good* and not for any *private benefit*. The badges which distinguish a valid tax, even though it be called a license, are, that it is uniform, equal, and that the proceeds go into the public treasury. That treasury may be the State, County or Town; but still it is the public treasury, and the money must go into them, and, ostensibly at least, for the public benefit. The license must be uniform—that is, alike in its character and equally imperative on all of the particular class of persons pursuing the calling to be licensed. It must be equal in its burthen, though that equality may be per capita, or a per centage; and in all cases the money received must go into the public treasury for public purposes.

The decision in the case of *The People vs. Philip Thurber*, 13th Illinois, 554, cannot be cited to sustain the provisions of the act in question. *The License Law* under which that decision was rendered, was passed during the lifetime of the old Constitution, and before the limitation afterwards made in the 2d Section of the 9th Article of the new Constitution took effect. The new Constitution kept the License law alive, and therefore the case was adjudicated without any reference to the implied limitation in the new Constitution. And even if it had been, it would have made no difference, for that was a case of real, bona fide license, when the money went into the public treasury and was raised equally and with due regard to the legitimate rules of taxation.

It may be thought that this law only effects the agents of foreign companies, persons, or associations. But this is not so. Every person, partnership, or association, residing in *the State of Illinois*, and even in *the City of Chicago*, that underwrites through an *agent* in the City of Chicago, and insures property here against loss or damage by fire, is amenable to these provisions, if they are constitutional and binding. In this way, private persons are heavily taxed for doing a lawful business, while artificial persons escape. The law, therefore, is unequal, and does not bear equally and justly on the class of persons within the purview of its spirit. This fact, too, destroys all the pertinency of any argument that might be attempted to be predicated upon the right of the State to regulate the use and enjoyment of franchises or privileges in this State by foreign corporations or persons.

The provisions of the act in question seem to belong exclusively and solely to that rare class of statutes, by which it is attempted to benefit one person at the expense of another. If there was ever a case in which the descriptive language of the greatest of American lawyers could be made to properly and pertinently apply, this is one, for in truth and in fact, the act in question is "*a legislative judgment; an act directly transferring one man's estate to another.*"

For these reasons, I consider the law unconstitutional, and therefore void.

MARK SKINNER.

The insurance business in the State of Illinois is as legitimate and proper as any other business in which the citizens of the State can embark. It is open alike to all persons, natural as well as artificial, individuals as well as corporations. There is no law prohibiting it—there is none that discountenances it as being a calling hostile or injurious to public policy. The premium money earned in its pursuit as absolutely and as justly belongs to the person or association earning and receiving it as do the wages of labor belong to the laborer that earns and receives them. Once earned, they become private property, and as such are protected and assured as perfectly as the rights of property protect and assure any private property whatsoever. To compel the owner to part with any portion of property so earned, except in the same manner that the owner of any property legitimately earned in any calling, however worthy or honorably, may be compelled to do, is rank robbery. Under our Constitution it cannot be legally done. The act in question, however, attempts to affect that object. It calls upon the insurance agent to pay over a considerable per centage of his employer's property, not as a *public* and *equal* tax levied on community at large, or even on all persons of his craft, to go into the public treasury for the public good; not in the course of the administration of justice to pay just debts or recompense a wrong—but simply, nakedly and boldly, as a forced gratuity, without compensation or equivalent, to a private person for private benefit. The fact that the corporation is ostensibly created for a charitable purpose, of course does not effect the position in any particular. It is in no sense a public corporation, much less a political one, in the sense in which city and town corporations are—and cannot, therefore, claim any such rights or powers as are sometimes granted to such corporations. It is purely private, both in its constitution and the ends for which it was created, and all its rights and powers therefore are, and must be, upon the narrowest and most restricted basis.

But it may be attempted to be argued that this money so required to be paid is not a tax, but is license money. I have never been able to apprehend the difference attempted to be drawn between taxes and licences, as also between taxes and special assessments. A tax on property may be one thing, and a license to pursue a particular calling may be a different thing; but I apprehend it involves a difference in name and not in nature. In either case it is simply the exercise of that power of taxation inherent in the State, by which the public wrests from a man a portion of his private property without compensation, for the purposes of supporting the government. The change of name from tax to license does not change the act. But, whether it does or not, it is not necessary on the present occasion to inquire. The act in question is not in any sense whatever a license law. A license law comprehends only the idea of paying into the *public treasury* for the *public benefit* whatever amount of money the law may see fit to exact of any one pursuing a particular calling. The 2d Section of the 9th Article of our Constitution expressly defines what callings, business and persons may be specially taxed, and thereby, according to the well-understood construction of Statutes, *limits* the callings, business, and persons that may be so taxed, and also the method of taxing them. By this clause, the Legislature is restrained from imposing any other burthens upon the business, employ-

2d. Laws providing for the appropriation of the property of individuals in the course of a due administration of justice.

3d. Laws passed in pursuance of the power of taxation vested in the legislature, as limited and restricted by the provisions of the Constitution.

That the provisions of the act in question come under either the first or second of these heads, will not of course be pretended. It only remains, therefore, to inquire whether the legislature, under its power of taxation, has the constitutional right to pass such a law as the one under consideration.

Without undertaking to define or enumerate what is actually within the legislative power of taxation, it is sufficient for the present purpose to lay down the clear and undisputed principle that the right to take the private property of one person and give it to another private person for his private use, is not within the power of taxation, or any other power possessed by the legislature. The legislature may compel a man to part with any specific article of property to be appropriated to *public purposes*, upon making him due compensation. It may compel him to yield up his property for the payment of his debts, or as a penalty for wrong doing. It may compel him to appropriate a portion of his estate in defraying his proportion of the burthen of government; but it has *no power* to compel him to alienate any portion of his property to a private person for private uses, even though he should receive *ten-fold* compensation;—much less can it compel him to part with his property for such purpose without any compensation whatever.

There is no way in which a law can be disguised, whether under the name of a *License* law, *Revenue* law, or how otherwise, that can effect such an object directly or indirectly, or that can baptize it into a constitutional and vital existence.

Does the act in question attempt the accomplishment of any such result? By the terms of the first five sections of the act in question, a private corporation is created. It is simply a private corporation; a purely private artificial person created by law for a private purpose, and without one trace of any thing of a public nature in its composition, and without one public duty. As such private person, it has only the bare naked rights of an ordinary private person, not to the extent by any means of a natural person, but only such as are allowed to it by the bare letter of the charter of its existence. Beyond this it has nothing. The succeeding sections of the act are the ones under consideration. By these the legislature has attempted to require that all persons acting as agents of persons and associations not incorporated by the laws of the State of Illinois, in the business of effecting insurance against loss or injury by fire in the city of Chicago, to pay over to the private corporation so created by the preceding sections of the act, two per centum of all premiums received by such agent, *or agreed to be paid to him* year by year. The provisions in question have just this extent and no more; they require certain private persons pursuing a lawful calling in the city of Chicago, to give year by year a portion of their estate, without compensation or equivalent, to another private person for the private use and benefit of that person alone; and in addition thereto, meanwhile, puts such persons under bonds in a heavy sum, that they will so give of their estate in compliance with the terms of the law.

was referred to the Committee on Ways and Means, and ordered to be printed. In this way its presentation became simply a matter of record, for future reference and action. We were among the signers of this memorial; and our only objection to it was that it is not broad enough to cover all branches of the Insurance business—Fire and Marine, as well as Life. There is no good reason why the Insurance business of the country should not become as national as the business of banking. The question of Union is settled. Now let us nationalize; and so do away with all petty State lines and State laws, in financial and commercial transactions. We append a copy of the memorial to which we have referred :

"We, the undersigned, citizens of the United States, respectfully represent that there are now in the United States, thirty, (30,) or more life insurance companies incorporated by loyal States and States in rebellion.

"That in order to secure all the averages which appertain to health and longevity, it is necessary for, and the several companies do issue policies of life insurance in States other than those from whom they receive their charters.

"That the people of the United States are constantly changing their residences, from one State to another, and are thereby subjected to embarrassments, by reason of conflicting State laws, which to a greater or less extent prejudice the interest of persons insured, and their survivors, in the collections of claims for losses.

"That the rules and regulations of State institutions are variable, and that no standards have been, or are likely to be, established, whereby the solvency and perpetuity of life insurance companies will be secured.

"That at the present time there are very nearly or quite one hundred thousand (100,000) persons holding policies of life insurance, amounting in the aggregate to about two hundred and seventy millions (\$270,000,000) of dollars, towards the payment of which the several companies have accumulated about forty millions (\$40,000,000) of dollars, and are receiving in annual premiums about eight million five hundred thousand (\$8,500,000) dollars.

"That the present is believed to be a favorable time for Congress to establish a Bureau of Life Insurance, at the seat of government, under an act which will enable State institutions to become national in their character, receiving new charters from and depositing the capital with the government, and exchanging their present policies for issues such as shall be authorized by the Comptroller of Life Insurance.

"That in the opinion of the undersigned, such a modification of the system of Life Insurance would be beneficial to the present life insurance companies, and the present holders of their policies; and that the holding of policies of life insurance, issued by life insurance companies of a national character, would tend greatly to increase the interest of the people in the government, and that the latter would be strengthened by the concentration of capital, which has been already accumulated, and which, under a national system, would increase with great rapidity; and the blessings of life insurance would be more generally distributed among the people.

"In view of the above, and many other considerations, the undersigned petition Congress to consider the subject, and pass the act hereto appended, with such alterations and amendments as in your wisdom shall be deemed necessary. And, as in duty bound, they will ever pray.

¹¹ Dated, New-York, *January, 1865.*

C. P. SMITH, Brooklyn, N. Y.
MARSHALL JEWELL, Hartford, Conn.
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HENRY C. BOWEN, New-York Indep't.
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From the Wall Street Underwriter.

NATIONAL INSURANCE COMPANIES.

Many months ago, in this paper, we advocated the establishment of a National Bureau of Insurance at Washington, to assimilate our Insurance Companies to the action of the National Banks, and thus over-ride all the unconstitutional inter-state prohibitory laws which have grown into fashion of late years. More or less were we derided for our suggestions at that time. "Insuperable obstacles" were suggested, and we held our peace, still believing we were right. Now the officers of the several leading companies in the general agency line have grown up to the dimensions of the idea, and a general movement is on foot to memorialize Congress to nationalize our Insurance Institutions. Good! We look on it that the thing will be done, and hope to live to see the day when a sound Company can operate from Maine to California, without let or hindrance from State limits or jurisdictions. As to *how* it shall be done, "How to do it," much remains to be considered; but the details will be worked out when the principle is settled.

In this connection we confess that we have felt and have published what we felt, that our leading companies were too supine for many years in regard to the obnoxious State restrictions now complained of. For instance, the New York and Hartford Companies should never have complied with the State deposit law of California, but should have resisted it and taken the question up to the United States Supreme Court, where we feel a firm

conviction the law would have been declared unconstitutional and void. However, if Congress can be now prevailed upon to establish a National Insurance Bureau, and empower properly constituted companies to transact their business all over the country, greater results will be reached than could be accomplished by even the most satisfactory decision of the Supreme Court. Care must be taken, in organizing the national system, that the individual characteristics of well established companies shall not be merged in the indiscriminate plan of numeration, as in the case of the banks. Good companies will need to preserve their nomenclature as they value their individuality. It will answer well enough to have the *Ætna* National of Connecticut, and Home National of New York, &c. &c., whilst it would be subversive of all existing interests to have the companies jumbled up and distinguished only as *first, second* or *third* National Insurance Companies, &c. We expect there would be *Continental* as well as *Metropolitan* objections to such a course.

From the Insurance Monitor.

INSURANCE AND DEPOSIT LAWS.

The truth, that the ability of an insurance company to respond to all claims for losses that can be made upon it, largely depends—first, upon the amount to which it assumes risks within a limited area; and secondly, upon the extent of country over which its business is conducted, is one which has not commonly been sufficiently appreciated.

Whenever companies insure for unlimited and excessive amounts, the happening of a fire which burns over a comparatively small district, is liable to render it impossible for them to pay the losses sustained under their policies. If companies, whose business is confined mainly to a single city, assume such inordinate risks, the liability to failure on account of such a fire, is vastly greater than in the case of companies whose business reaches as wide as the country extends, for, while the annual receipts of the former commonly range between \$50,000 and \$100,000 per annum, those of the latter extend to five or ten, or even twenty times these amounts. and these large annual receipts aid materially in paying excessive local claims. It does not follow that the company which does the largest business is necessarily the safest company. The amount of capital has a bearing upon this question; but the fact of greatest consequence is this: is the business prudently conducted? That is, does the amount assumed within limited districts, bear just proportion to the amount of annual receipts? If all capitals were of equal amount, the business conducted with uniform prudence, and the charges for insurance equal, it is plain that the extent of district over which companies insure, would be very nearly the measure of the security afforded by them respectively. What is called luck, either good or ill, extends only to limited districts, and for brief periods; consequently the companies doing the widest business will, provided that business is done with prudence, find themselves, from the fact that the aggregate average of loss over an extended district is not liable to sudden fluctuations, be able to pay the excessive losses, in a few localities, from the

counter-balancing excessive profits of the remainder of their field of operations. The capital of companies adds to the security of policy holders precisely in proportion to its amount, provided the measure of prudence is perfectly equal.

There are, also, other advantages to the community in having its insurance companies extend their business over a wide district instead of operating within a more limited sphere. One of these advantages is, that a more extensive and thorough knowledge of the real cost of insurance is obtained, and excessive charges arising from ignorance are modified; and another is, that there are certain inevitable expenses to be incurred in conducting a business of \$50,000 per annum, which would not be materially increased in transacting a business of \$1,000,000 per annum. The expense of conducting the fire insurance business of the country is not far from 33½ per cent. of the premiums received; in few cases falling below 25 per cent., in many cases exceeding 50 per cent., and now and then running up to 75 per cent. It is evident that each 5 per cent. of reduced expenses in conducting the general business is in the end just 5 per cent. advantage to the community requiring insurance.

The actual amount assumed by different companies unfortunately bears proportion neither to the amount of their respective capitals, nor to the extent of their several businesses. Amounts are taken on single risks ranging from \$5,000, as the maximum of some companies, to over \$300,000, as that of others, and the practice respecting taking neighboring risks ranges just as widely, some companies writing with unnecessary caution, and others with the most unpardonable and short-sighted greediness.

The question, then, becomes a most important one, whether the advantages of transacting a broadly extended and properly regulated business can be secured, and whether such rash conduct on the part of any portion of the companies as has been referred to, can be prevented. The reply must be in the negative, if there are to be as many, or one-half as many, different rules of action for insurance companies, as there are, or may be, States in this Union. To-day no two are precisely alike. Some do not at all restrict their companies as to the amount to be taken on a single risk; others require special deposits for the security of their own citizens, as a pre-requisite to the establishment of agencies by companies of other States, and all require different and often meaningless statements from the companies.

The tendency of a deposit system is to enhance the cost of insurance to the inhabitants of the States requiring deposit. Competition is diminished, and it is an inflexible law of trade that all impediments in its way must be paid for by those who place them. It is seldom that so great a fallacy as that originating this effort to obtain security by special deposits, is made a law. Whether the deposit be great or small, it diminishes the ability of the company to meet the demands upon it to exactly the amount of the deposit itself. The only exception to this rule is in case of a company having made a deposit with but a single State. The inhabitants of that State are not at all benefited, nor are *they* injured (although every customer outside of that State is); but just so soon as a company has made deposits in more than a single State, just so soon all of its insured, including the

inhabitants of the States holding deposits, are injured. The best security given by a company, assuming it to be honestly managed, consists in having all its assets under its own control, and applicable, on the instant, to the payment of claims upon it.

There are now no fewer than six States which require deposits, ranging from five per cent. of the annual premiums to \$75,000, and as a necessary result other States constrained thereto, are preparing laws requiring similar deposits, or excluding from transacting business within their limits, all companies that have made such deposits with other States. The action will, no doubt, generally tend in the direction of requiring deposits, and then, of course, State will compete with State as to the amount of the deposit. New York, for instance, with its large accumulation of property in narrow districts, will insist upon having deposits so large as to bear the same proportion to the largest deposit in any other State, that its population bears to the population of such State. So will Massachusetts, with its Boston; Pennsylvania, with its Philadelphia; Maryland, with its Baltimore; Ohio, with its Cincinnati; Illinois, with its Chicago; Louisiana, with its New Orleans, and other States with grown and growing cities; and this necessary discrimination will, of course, excite again the jealousy of States without concentration of property in large cities, until the deposits required become so great that companies will be obliged to elect which three or four States they will do business in, no existing amount of capital being sufficient to comply with the deposit laws of a greater number of States. And while this evil is growing, how fictitious is the security presented by the companies which, in compliance with the requisitions of the States, thus hypothecate their assets!

The States requiring deposits stipulate that no company shall withdraw its deposit until all its risks in the State have terminated. It is a common thing for risks to be written for three years, and even five year policies are not unusual. Let fires occur in New York or St. Louis, or San Francisco, or in several other cities, no larger than any of these cities have already experienced, and, with the immense sums now frequently assumed by companies, it is not improbable that at least fifty per cent. of the losses would remain unpaid until the years elapse necessary to run out the policies of the company losing, and release its hypothecated assets or such portion of them as might remain after the payment of local claims. How serious the effect of such a result would be, can be readily appreciated when it is recollected that when property is destroyed by fire, the loser, be he a claimant for loss of goods worth a half million of dollars, or for a dwelling worth one thousand dollars, wants money *then* as he never wanted it before. The prospect of getting it at the end of two or three years is not much better than that of not getting it at any time.

Is there no remedy for an evil already great and which is liable to become a much greater? None, unless the whole system is changed. The tendency of the action of the several States is all in the contrary direction. The immediate interest of many of the companies engaged in an agency business, is in favor of having as many restrictions as possible placed in the way of competition. So certainly is this the case that it is commonly understood that many of the restrictions, imposed by States, cities, and

counties in the way of deposits, taxes, license fees, statements, &c., have originated with insurance companies. There is no hope therefore in this direction, nor in any other, unless a fundamental change is effected, and that to such an extent, that instead of having more than a score of different standards for the periods and forms of their annual statements, the limit to which they may assume liabilities, the extent of capital required, the tax and license fee imposed, the amount of deposit exacted and the various other existing inequalities, the companies generally are brought upon a common platform, and all are compelled to conduct business on a uniform plan so far as its action is concerned.

Whether this can be accomplished or not depends upon the possession by Congress of the right to regulate this branch of Commerce, and whether, if the right exists, the subject can obtain the consideration its vast importance demands. That Fire Insurance is an important branch of commerce needs no argument. The mere statement that without Fire Insurance, no man not already too wealthy to have any inducement to do so, can pursue business, because no one not thus wealthy can either obtain merchandise on credit or afford to hold that which he owns to any large extent without fire insurance, is at once recognized as a fact and establishes it as one of the most essential elements of commerce.

Banking is often carried on by individuals. Marine Insurance has in an inferior manner been prosecuted in England by individuals, but the assumption of fire risks by individuals is a thing unknown, and from the nature of the case, except by corporations, is impossible. If then, unless by institutions created by law, there can be no Fire Insurance, it is of the first importance that the institutions which are created for a business so essential to commerce should be regulated in the wisest manner, and they should all, for the same country at least, be homogeneous. Of course the existing companies and all such as may hereafter be created by the individual States, should be left to conduct their business at home as the various State laws will permit, while by complying with such regulations as Congress may prescribe, they ought to have the right to pursue their business wherever the authority of the Government extends. Judicious congressional action alone can induce many of the existing companies to pursue such course as shall render the holders of their policies as safe as they can (and therefore should) be made.

From the Insurance Monitor.

THE BUREAU OF INSURANCE AT WASHINGTON.

The preamble to the Constitution of the United States reads as follows: "We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, *promote the general welfare*, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution," &c. and the Constitution in article 1, Sec. 8, when defining the powers of Congress, establishes its power to legislate for the "*general welfare*." In after parts of the same section, provision is made for establishing also "uniform

laws on the subject of bankruptcies throughout the United States—also to coin money, and give the standard of weights and measures—also to establish post offices and post roads, also to promote the progress of science and useful arts.”

Without occupying the time and space necessary to show how far these and other interests which relate to the “*general welfare*” of the people have been legislated upon by Congress, we pass down to the year 1841, when for the first time, Congress deemed it necessary and did pass a general bankrupt law, for the first time. Subsequently, but not till after this law had accomplished its mission, it was repealed; later still a new one has been submitted to Congress, but not perfected.

Prior to 1863, the States incorporated Banks, and they supplied the people with the only circulating medium they had, for there was no other paper currency issued in the United States.

Under this general system, each State created its own Banks, and made its own laws in regard to the issue and redemption of the bills of its own Banks, and some of the States made it unlawful, and a penal offence, to undertake to pass circulating notes of a less denomination than five dollars.

New England, by common consent, made a system of redemption at the Suffolk Bank, almost common law, regarding that as the best and surest method of keeping all the Banks in New England, safe to the bill-holders.

New York established what was called the safety fund system, whereby each bank belonging to the association was bound to a certain extent, to assist in making good the losses of bill-holders of any one of their number, which should happen to fail, and otherwise unable to redeem all its circulation.

Subsequently this system was abandoned, and the State itself undertook to provide for the absolute safety of bill-holders, by requiring a pledge by the Banks of the State, of real estate and of certain public stocks to be held by the States, for the common benefit of the bill-holders of their Banks.

The above and many other systems of State banks have been practiced, but they having produced a changeable currency, Congress in 1863 established a system of National Banks, regardless of intense opposition by a portion of the States and people; but the moment the currency of National Banks met the eyes of the people, they all, rich and poor, old and young, capitalists and laborers endorsed the plan, by giving the preference universally to the currency of National Banks, over that of State banks.

Later still, Congress, in the exercise of its constitutional right to do so, established by special enactment, the Freedman's Bureau, which, like other features of modern legislation, was the offspring of progress, and the forerunner of further legislation by Congress, for the “*general welfare*” of the United States, and the special benefit of the people.

Insurance, like banking, having been left for the States to ordain and control, has been subjected to a great variety of special acts of legislation, until finally, each State not only legislates in regard to their own companies, but many, indeed a majority of the States are now, and have been for several years, legislating about and prescribing terms on which the Insurance Companies of sister States shall be allowed to enter and transact

business with their people; and to insure the enforcement of these laws, heavy penalties are prescribed.

Among the enactments of States are found regulations as to the amount of capital, how it shall be invested, and demanding a portion of it on deposit, to be held in trust for the benefit of the people of the State with whom it is deposited. Taxes are levied on premiums collected, and sometimes on capital; annual exhibits—expensive advertising of a particular character; the filing of charters; the entire schedule of all policies ever issued, and, by annual additions, all subsequently issued, whether to the people of that or of any other State; full explanations as to the manner in which they transact their business; the manner of declaring dividends, and the manner and time of paying them; and sometimes votes and resolutions of the directors are called for; attorneys have to be appointed on whom processes of law can be served; and a long list of honorary fees, heavy State licenses, and other expenses, so that, to attempt to comply with the laws of a sufficient number of States to secure the benefits of the principle of averages which apply to life, health, fires, and the winds and the waves, is to run risks and hazards never contemplated, including penalties, and, what is worse, State officials who, having had conferred upon them more or less discretionary power, become their own law makers, and a summary ejection from the State is likely to follow.

This annoying system of legislation by one State has led to retaliation by others, until at the present time, a majority of the States, by retaliatory laws, have rendered it almost impracticable for Insurance Companies to continue the ordinary transaction of their business. Indeed the evils now experienced and the annoyances now put upon the legitimate business of Insurance Companies, far exceeds that formerly experienced by the people in the system of State banking.

In Life Insurance the present State system produces an evil of the most monstrous character; not a single State has ever attempted to establish tables of mortality and expectation of life, or the rate of interest on money, to be used in the valuing of the policies issued by their own Life Insurance Companies; but they have left it an open question, so that State officials and the managers of Life Insurance Companies necessarily come in conflict, especially as the former become laws unto themselves, and each company is subjected to as many kind of ordeals and standards as States they attempt to transact business in.

So far has this conflict gone, that it is necessary for Insurance Companies to employ an expert, either in or out of their offices, in order to read up year by year, and to post up—movement by movement—the action of States, or the rulings of their Treasurers, Comptrollers, Insurance Commissioners, Superintendents, &c., as the case may be. Indeed, it is very difficult in many States to know who to apply to, in order to get all the necessary information, and when and how to perform all of the requirements of position or of reciprocal laws—for thus far the requirements of no two States are alike; and the same is true of State officials, clothed with discretionary power.

Whenever special deposits of capital are required by sister States, such deposits become special assignments of just so much of the capital of the

Company, for the exclusive benefit of the people of the State demanding and receiving it; and it being then beyond the reach and control of the Company itself, is no longer an available asset for its general purposes.

Such a system of legislation, by the States, (and it is on the increase,) will drive every company into too narrow limits for the laws of average to apply upon their business, or the companies must scatter and exhaust their capitals in making special State deposits, and thereby become entirely subjected to and controlled by as many States and State officials as hold their deposits—so that, as has already been attempted, one State will alter the legal effect of the terms of any policy issued to their people. In fact, at the present time an Insurance company doing business in several States, is to a certain extent, in certain cases, obliged to conduct its business in as many different ways as States in which they transact business.

And here we meet a new difficulty. Much of the legislation now enforced by the States, is pronounced unconstitutional, by such men as Webster, the Hon. Mark Skinner, of Chicago, the Hon. Geo. Wood, and the Hon. Samuel Jones, of New York, and by others representing the best legal minds in the country.

To settle these vexed questions, by recourse to the courts, would involve the whole Insurance fraternity in endless and expensive litigation, rather than which they submit to annoyances and wrongs, which are hard to endure.

The people and the Insurance companies now propose to have this very injurious and perplexing State system exchanged for a National one, so that this conflict of laws shall be ended, with one place for the deposit of capital—one ordeal to pass—one accountability, and but one accounting officer. This done, confidence in the perpetuity of our companies will be restored, expenses will be vastly reduced, Insurance premiums will be permanently diminished, and the people will hail the advent of the system with demonstrations of favor, the same as they did the bills of National Banks.

Congress, in establishing a Bureau of Insurance, at Washington, will provide, in the enactment, that existing State companies may, as in the case of State Banks, be turned over and converted into National institutions; this done, and such companies as have made deposits with States, will be allowed to withdraw them, and make their deposit at the seat of Government, in Government securities, registered and held for the benefit of all the policy holders of the company, no matter where they may reside. This change will add to the security of every Insurance policy, whether it be Life, Fire, or Marine, and the holder will feel not only a new interest in his policy, but in the Government itself—for his policy is founded upon it.

In conclusion, we venture to assert, that when the time shall come that all the Bank bills, and all the Insurance policies held by the people, are National in their character, and based upon the debt of the Government, it will be universally admitted that Congress has done more "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, *promote the general welfare*, and secure the blessings of liberty to ourselves and our posterity," than ever before, by mere legisla-

tion for them; every bank bill, and every policy of Insurance upon our lives and our property, representing as they will thousands of millions of dollars, and held by citizens in every town in the Union, will become a tower of strength to the Government itself.

NATIONAL INSURANCE BUREAU.

Mr. A. D. Morgan, the able President of the North American Life Insurance Company, has written a letter to Superintendent Barnes on the subject of the proper mode of valuing the liabilities and assets of Life Insurance Companies, wherein he dissents materially from Mr. Barnes' views on the subject. It was our intention to have published the letter, but want of space will not permit us. We, however, cannot omit publishing Mr. Morgan's allusion to a National Insurance Bureau, a subject which is being now generally agitated. He says:

My motive in thus addressing you has a far more extended object, as broad and comprehensive as are the blessings which follow in the train of a wise and extended adoption of the practice of life insurance. If the State, or, what is better for this purpose, the National Government, is to legislate on the question of a test as to the solvency of our Life Insurance Companies, I might suggest that a commission be created to investigate the vital statistics of the country in which the business of the Companies is to be transacted, and fix upon a rate of interest, to which the calculations for premiums should be adjusted, with such a measure of contingent loading as would be deemed sufficient to meet expenses and other incidental charges. This would be all that should be required. Applying this rule of cost to the business of every Company at annual or other periodical seasons, a certain test would be always at hand, and the public would then, in the reports of the Bureau (which I would have at the seat of the National Government), have a sure guide as to where they could secure the advantages of life insurance.

The reasons why I would prefer a National Bureau to the present State supervision are patent to every officer of our present Companies.

Life Insurance, to be successful, should not be confined to one locality. The business of a Company should be extended over as great an extent of territory as possible, in order to equalize, as far as may be, the rate of mortality among its members in seasons of epidemics. A company doing an extended business in the city of New York, and in all the large cities of the United States, would hardly be affected in case of the plague raging in one of those cities, while the others are exempt; the income from the exempt district compensating for any excessive claims from the infected one. It is therefore important that the largest liberty to transact business throughout the whole country should be accorded to our Life Insurance Companies.

Under the present system of State Legislation it is very difficult for our Companies to so extend their business. Restriction after restriction is thrown up against the work of the insurance agent throughout the length and breadth of the land, as though the business involved some terrible harm to the public, instead of the life-giving stream of joy and gladness

that it is to the widow and the orphan. This, to enable the work to go on as it should, and would were matters different, should be remedied by the creation by Congress of an Insurance Bureau, to which every Company in the country should report, to enable it to transact business outside of the State where located. The filing of such report with such deposits in the Bureau, as is now demanded by our own State laws, and with satisfactory evidence of solvency as the laws of Congress might demand, should secure to such reporting Companies certificates of authority to transact business within any State of the Union, without regard to any State or municipal laws whatever.

From the Insurance Monitor.

NATIONAL INSURANCE DEPARTMENT.

It is a truism in Politics, that, as New York goes, so goes the Union : and, since New York is the financial heart of the country, it is equally true that as this monetary heart beats, so throbs the pulse of the Republic. Hence it results that the financial institutions of other States are modelled, to a great extent, on those of New York. Nor do foreign countries fail to profit by our example in these particulars. Our Insurance Department, for instance, has afforded a useful hint to all communities, and has been widely imitated. In view of this fact, we think it cannot be denied that Superintendent Barnes has done himself great credit, and the State great service, in this official department. In the important, onerous, and very responsible position of Superintendent of the Insurance Department, he has displayed an original, independent, and indefatigable mind. He it is, also, who has first suggested, in an official manner, that the Insurance business ought to be made National. The narrow and illiberal California Law has received, in his last Report, a properly severe rebuke. In discussing this subject, he thus, for the first time, officially, suggests the idea of a National Insurance Department :

"If the system of State deposits by Insurance Companies is ever to become prevalent in the United States, such deposits should never be required to be made except in the State where a company is incorporated, unless made with the General Government at Washington, and all deposits by American companies should be held, not for the special protection of policy-holders residing in any particular State, but for the common benefit of all American policy-holders ; and all deposit laws should be applicable to home companies as well as to those of other States of the Union "

Again, he pursues this idea with the following pertinent suggestion :

"It is possible that under the power to regulate Commerce among the several States (*see Art. 2, sec. 8, sub. 3*), the right inheres in Congress to prescribe rules and regulations for the governance of inter-state corporate Underwriting, thereby insuring a uniform and harmonious system in lieu of the varying and dissimilar requirements of the different States."

These views are followed up, in an article on National or United States Insurance Companies in the *Wall Street Underwriter*, from which we make the following extract:

"When in the course of human events improvements are necessary, they are accomplished."

"The successful establishment of the National Banks, founded on United States Securities, has given rise to the question, 'Why not have National Insurance Companies also?' This question cannot be answered either yes or no, without some serious, anxious reflection. Upon the very threshold of inquiry falls the broad shadow of a puissant body called 'States Rights.' How would such a scheme interfere with State Rights? It would confer upon corporations created by Congress, the right to transact insurance business in every State and territory of the Union free from let or hindrance at the hands of any State or local authority, without charter or license from any local power, and free from all local taxes or impositions. This would simplify and facilitate the transaction of insurance business throughout the country. But it would unquestionably so far interfere with the right of privileges hitherto exercised by each State as to in a measure supersede them by the exercise of a power paramount. Yet it would not, could not preclude any State or territory from exercising the same power in a collateral degree within its own jurisdiction. State legislatures could still charter insurance companies for local business, being in fact all that any State could ever do. Congress could confer the additional power on all State Companies upon certain conditions of operating throughout the entire Union. The power to regulate trade and commerce as between the several States being vested in Congress, cannot that power be exercised to regulate the business of insurance which is merely a department or auxiliary of Commerce, as between the several States? This could be effected by empowering all the companies now organized or hereafter to be organized in the several States to transact business throughout the Union upon the terms of investing their capital or one half or three-fourths of same in United States Securities, such portion to be free from taxation and to account annually to a Central Insurance Bureau to be organized at Washington. The material for the organization of such a Bureau is ready to hand. New York and Massachusetts could already furnish competent skilled chiefs to such a Bureau in the persons of Mr. Barnes and Mr. Wright."

This, it seems to us, is somewhat extreme doctrine: and, much as we sympathize with National enterprise, and all sorts of schemes that work for the National good, we yet hesitate to endorse this idea. Insurance, in most of its aspects and its bearings, is local. Would it, then, be wise to take its management from the State authorities? A policy of Insurance is a purchasable article, sold at the highest price by the company, and bought at the lowest price by the public, according to the law which governs in all transactions of bargain and sale. The first necessity is soundness and security in the contract. Mere insurance capital, without experience and good management, is no lasting pledge of security to the public. A company having \$1,000,000 capital may be ruined by the conflagrations of a single night, in consequence of its holding badly selected risks. The need of proper direction is self-evident. Would such direction be assured under the supervision of the National Government, remote from the company's operations, and only animated by the cold spirit of official routine?

We think not. On the contrary, we believe that failure would be frequent under that arrangement, whence general distrust of Insurance corporations would rapidly possess the public mind. A single wild cat, one-horse concern in Michigan, failing, under this system, would throw its blot of ruin upon the whole Insurance brotherhood—upon the staunch old *Ætnas* of Hartford, equally with the feeble corporations of its own Peorian hamlets. In short, the failure of a single company, under this new regime, would discredit the entire system of National Insurance supervision, and damage the interests of Insurance everywhere. Nothing, surely, would be gained by that. Nor, again, do we see how the National Government would be financially benefited by the organization of such a department. Insurance companies, as we regard the matter, are mutual aid societies, combinations of citizens to help each other. In the very nature of things, therefore, they are local benevolent associations, which should be committed to the management of those nearest, and most interested in their affairs. We have always urged, indeed, that they ought to have national privileges—to wit, the freedom of the whole country for business purposes—and that all possible safeguards ought to be thrown around them. But we stop there. The American people read and think, and do not need the legislation of the Federal Congress for every thing. Left to themselves they are wiser than any body of legislators—because their hearts are in the right place, and their instincts go with the truth and the right. If, however, we are mistaken, and a National Insurance Department is, indeed, desirable—as tending to conserve Insurance interests, and make us more homogeneous as a people—we shall not oppose it. All that benefits our country deserves and will receive our determined support. The plan of requiring each Insurance Company to invest from one to two hundred thousand dollars in United States Securities, in order to obtain the right of doing business in each and every State—that security being deposited, as National Insurance capital, with the Secretary of the United States Treasury—and to make an annual statement to that officer, might prove practically beneficial, and we trust that Superintendent Barnes will consider the subject at length, in his next report.

AN ARGUMENT
FOR
A NATIONAL BUREAU OF INSURANCE.

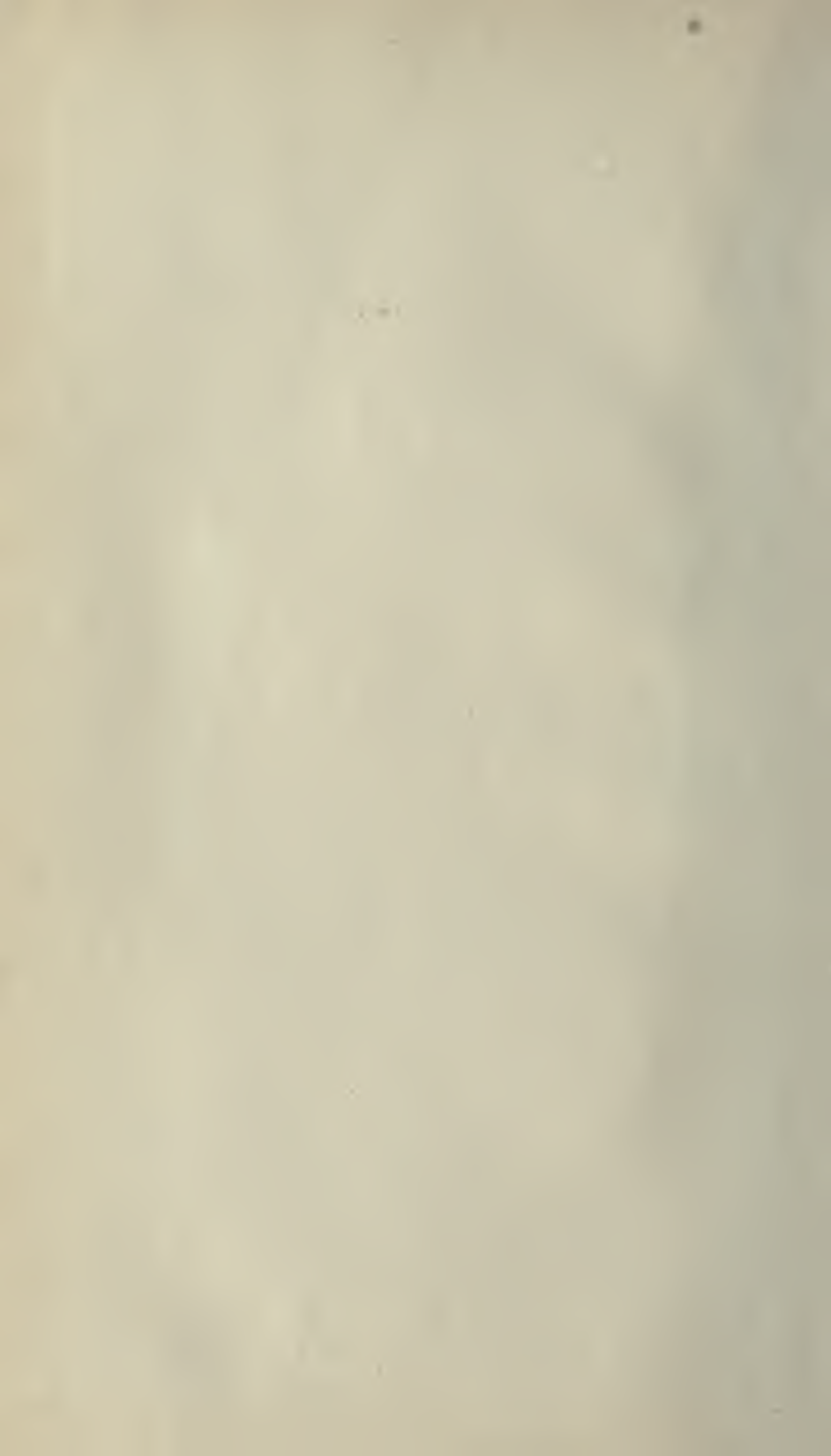
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By NATHANIEL TYLER. /

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